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PART V

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly Legislative and Bills published under Rule 18 of the Constituent Assembly (Legislative) Rules.

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 22nd November, 1947:—

L. A. BILL* No. 50 OF 1947.

A Bill to provide for the preparation and execution of land development schemes, the reclamation of waste-land and the control of private forests and grass-land, in the Provinces of Delhi and Ajmer-Merwara.

WHEREAS it is expedient to provide for the preparation and execution of land development schemes, the reclamation of waste-land and the control of private forests and grass-land, in the Provinces of Delhi and Ajmer-Merwara ;

It is hereby enacted as follows :—

CHAPTER I

Preliminary

1. (1) This Act may be called the Delhi and Ajmer-Merwara Land Development Act, 1947.

(2) It extends to the Provinces of Delhi and Ajmer-Merwara.

(3) It shall come into force in each of the said Provinces on such date as the Chief Commissioner of that Province may, by notification in the official Gazettee, appoint.

Short title,
extent and
commence-
ment

*The Governor-General has been pleased to give the previous sanction required by sub-section (3) of section 299 of the Government of India Act, 1935, as adopted by the India (Provisional Constitution) Order, 1947, to the introduction in the Constituent Assembly of this Bill.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Board" means the Land Development Board constituted for the Province under section 3 ;

(b) "owner", in relation to any land, means—

(i) any person having a proprietary right in the land, including any usufructuary mortgagee of such right and, in the Province of Ajmer-Merwara, an *istimrardar* and a *bhumia*, or

(ii) any tenant of the land as hereinafter defined ;

(c) "prescribed" means prescribed by rules made under this Act ;

(d) "reclamation" includes cultivation, afforestation and any other improvement of land ;

(e) "tenant", in relation to any land, means any person having a right of occupancy in the land and includes a usufructuary mortgagee of such right and an ex-proprietary tenant, but does not include a tenant at-will or a sub-tenant.

CHAPTER II*Land Development Boards and Land Development Schemes***Constitution
of Land De-
velopment
Boards**

3. (1) As soon as may be after the commencement of this Act the Chief Commissioner shall, by notification in the official Gazette, constitute for the Province a Land Development Board consisting of the following members, namely :—

(a) The Deputy Commissioner, who shall be the Chairman of the Board,

(b) three official members who shall be persons of experience in agriculture, irrigation engineering, and forestry, respectively, and

(c) two non-official members.

(2) The members of the Board shall hold office for such period as the Chief Commissioner, in the case of an official member, may think fit, or in the case of a non-official member, may specify at the time of his appointment, and shall be eligible for reappointment :

Provided that a non-official member may at any time by notice in writing to the Chairman resign his office.

(3) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

(4) If there is a difference of opinion among the members of the Board regarding any question, the decision of the majority of the members present and voting shall prevail, and the Chairman shall have a casting vote.

(5) The Board may appoint one of the official members to be the Secretary of the Board.

(6) The Deputy Commissioner may by order in writing authorise any officer subordinate to him to discharge his functions as the Chairman of the Board on such occasion, or for such period, as may be specified in the order.

4. (1) The Board may direct the preparation, in accordance with such instructions as may be given by it, of a land development scheme for any area within the Province providing for any of the following matters, namely :—

Matters for which land development schemes may provide

- (i) preservation and improvement of soil ;
- (ii) prevention of soil erosion ;
- (iii) improvement of water supply ;
- (iv) improvement in the methods of cultivation ;
- (v) introduction of dry farming methods ;
- (vi) reclamation of land lying waste through water-logging, accumulation of sand, growth of jungle, soil erosion or any other cause ;
- (vii) cultivation of land lying uncultivated owing to the negligence or incapacity or absence of the owner ;
- (viii) regulation or prohibition of grazing and browsing ;
- (ix) control and maintenance of tree-growth ;
- (x) regulation or prohibition of firing of vegetation ;
- (xi) planting or sowing of trees, shrubs and grasses for the purpose of afforesting uncultivable land or providing shelter-belts against wind or sand or for any other purpose ;
- (xii) any other matters which may be prescribed.

(2) Every scheme caused to be prepared under sub-section (1) shall contain the following particulars, namely :—

- (i) the objects of the scheme ;
- (ii) details of the area to be covered by the scheme ;
- (iii) the work or kind of work to be carried out under the scheme ;
- (iv) the agency or agencies through which the work shall be carried out ;
- (v) the approximate estimated cost of the scheme ;
- (vi) any other particulars which may be prescribed.

5. (1) If the Board provisionally approves of a scheme prepared under section 4 whether with or without modifications, it shall—

Inquiry into and sanctioning of, schemes

(a) appoint an Inquiry Officer, and

(b) cause the scheme as provisionally approved by it to be published in the official Gazette, at the office of the Deputy Commissioner, and in each village in the area covered by the scheme, together with a notice stating that any person affected by the scheme who has any objections to it for any part thereof may submit his objections to the Inquiry Officer, either in writing or by appearing in person before him, within such period as may be specified in the notice.

(2) The Inquiry Officer shall consider all objections duly made under sub-section (1) and, after making such inquiry as he thinks fit, submit to the Board his report on the scheme together with the record of his inquiry.

(3) The Board may, after considering the record of the inquiry and the report of the Inquiry Officer, either sanction the scheme with or without modifications or reject it :

Provided that the Board shall obtain the concurrence of the Chief Commissioner before sanctioning any scheme—

(a) the execution of which involves a financial contribution from, or loss of revenue to, the Government, or

(b) in regard to which objections have been made under sub-section (1) by not less than one-third of the total number of owners, other than the Crown, of the land covered by the scheme, or by owners whose total liability for land revenue or rent in respect of the said land is not less than one-third of the total of land revenue and rent payable in respect of the land, other than the Crown land, covered by the scheme.

Publication
of schemes
and power to
make regula-
tions

6. (1) Every scheme sanctioned under section 5 shall be published in the official Gazette and shall come into force on the date of such publication.

(2) The Board shall also cause the scheme to be published at the office of the Deputy Commissioner and in each village in the area covered by the scheme.

(3) The Board may, by notification in the official Gazette, make regulations for the purpose of carrying out the objects of the scheme or in respect of any matter supplementary or incidental thereto, and any regulations so made shall also be published by the Board at the office of the Deputy Commissioner and in each village in the area covered by the scheme.

Penalty for
contravening
scheme or
regulations

7. If any person contravenes any of the provisions of a scheme brought into force, or any regulation made, under section 6 he shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Appointment
of Land De-
velopment
Officer

8. When a scheme is sanctioned under section 5 the Board shall appoint an officer (hereinafter referred to as the Land Development Officer) to be in charge of the execution of the scheme.

Works to be
carried out
by Govern-
ment at
owner's
expense

9. (1) Where under the scheme any work is to be carried out by the Government in any land at the expense of the owner or owners thereof, and such owner, or any one of such owners, wishes to carry out the work, he may give notice to that effect in writing to the Land Development Officer within twenty-one days of the publication of the scheme in the village under section 6.

(2) On receipt of such notice the Land Development Officer shall furnish the owner with full details of the work, and fix the date before which the owner shall carry out the work.

(3) If the owner fails to carry out the work to the satisfaction of the Land Development Officer before the date fixed by him, or if the owner at any time informs the Land Development Officer in writing of his inability to do so, the Land Development Officer may get the work carried out by such agency as he thinks fit and the expenses incurred by him in carrying out the work shall be recoverable from the owner as arrears of land revenue.

(4) Where any work is carried out in pursuance of this section by one or more of several owners, the other owners shall be liable to contribute towards the expenses incurred by him or them such amounts as the Board may determine.

10. Where under the scheme any work is carried out in land by the owner thereof or by the Government at his expense, and the work is in the opinion of the Board likely to benefit any other land in the area covered by the scheme, the owners of such other land shall be liable to contribute towards the expenses of carrying out the work such amounts as the Board may determine :

Contribution
by owners of
other land
benefiting by
work

Provided that the Chief Commissioner may remit the whole or any part of the contributions so payable in respect of any work carried out in land belonging to the Crown.

11. The amounts of contribution determined by the Board under sub-section (4) of section 9 or section 10 shall be paid by the persons concerned within such time as may be specified by the Board, and in default of such payment shall be recovered from those persons as arrears of land revenue and paid to the persons entitled to the contributions.

Recovery of
contributions

12. Notwithstanding anything contained in the scheme, the Chief Commissioner may direct that the work to be carried out, or remaining to be carried out, in any lands by the owners thereof shall be carried out by the Government, and that the whole or any specified part of the expenses of carrying out the work shall be recovered as arrears of land revenue from the owners of the lands in such proportion, at such times, and in such instalments, as the Chief Commissioner may fix, having regard to the amount to be recovered and the nature and extent of the rights of the owners in lands.

Power to
carry out
works and
recover ex-
penses from
owners

13. (1) On the completion of any work under the scheme the Land Development Officer shall prepare—

Statement
and map
showing de-
tails of work

(a) a statement in such form, and containing such particulars, as may be prescribed, and

(b) a map showing the location and other material details of the work.

(2) Every statement and map so prepared shall form part of the settlement record, or as the case may be the record of rights of the estate or estates specified in the statement, and the said record shall wherever necessary be corrected in accordance with the statement

14. If any person shown in a statement prepared under section 13 as liable to maintain and keep in repair the work fails to effect such repairs or renewals, and within such time, as the Land Development Officer may by order specify, the Land Development Officer may get the repairs or renewals done by such agency as he thinks fit, and the expenses incurred by him in so doing shall be recovered from the said person as arrears of land revenue.

Repairs and
renewals of
work

15. Where any land in which a tenant has a right of occupancy has benefited by work carried out under the scheme by or at the expense of the owner of the land and the tenant has not made any contribution to the expenses thereof, the Revenue Officer having jurisdiction shall, on application made by the owner in this behalf, enhance in accordance with such principles as may be prescribed the rent payable by the tenant in respect of the land.

Enhance-
ment of rent
on account
of improve-
ment effect-
ed by work

Rights of entry, etc.

16. (1) Any member of the Board or any officer appointed or authorised by the Board or by the Chief Commissioner, and the subordinates, servants and workmen of any such member or officer, may, after giving such notice as may be prescribed to the owner in possession of any land, enter upon and survey the land, or do any acts, or carry out any work, in or on the land, for the purpose of preparing, inquiring into or executing any land development scheme under the provisions of this Chapter.

(2) Every such member or officer as aforesaid shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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Appeals

17. Any person aggrieved by—

(a) a determination of the Board under sub-section (4) of section 9 or section 10, or

(b) the making of an entry, or the failure to make an entry, in a statement prepared under section 13, or

(c) the order of a Land Development Officer under section 14, or

(d) the order of a Revenue Officer under section 15, may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority, and the decision of such authority, and subject only to such decision, the determination, order or statement aforesaid, shall be final and shall not be called in question in any Court.

Powers of control

18. (1) The Chief Commissioner may from time to time give directions to the Board, and the Board shall give effect to it and be guided by such directions, in the performance of their functions under this Chapter.

(2) The Board may from time to time give instructions to the Land Development Officer, and the Land Development Officer shall comply with such instructions in the performance of his functions under this Chapter.

CHAPTER III

Reclamation of Waste-land

Definitions

19. In this Chapter—

(a) "Collector", in any provision, includes any officer whom the Chief Commissioner may, by notification in the official Gazette, appoint to exercise the powers, and perform the duties of, the Collector under that provision ;

(b) "date of taking possession" means the date on which temporary possession of the land is taken on behalf of the Government under section 20 ;

(c) "waste-land" means any land lying waste through water-logging, accumulation of sand, growth of jungle soil erosion or any other cause, or lying uncultivated for not less than five consecutive years owing to the negligence, incapacity or absence of the owner.

Order for taking possession of waste-land

20. (1) If, after making an inquiry in the prescribed manner the Collector is satisfied that arrangements should be made in accordance with the provisions of this Chapter for the reclamation of any waste land, he may by order in writing direct that

temporary possession of the land shall be taken on behalf of the Government on such date as may be specified in the order.

(2) The order shall be made in such form and brought to the notice of the owner or owners of the land in such manner, as may be prescribed.

(3) On the date specified in the order, the Collector or an officer authorised by the Collector shall enter upon and take possession of the land on behalf of the Government.

21. (1) When the land has been taken possession of, the Collector may, subject to any general or special order of the Chief Commissioner, arrange for its reclamation—

Arrange
ment for
reclamation

(a) by retaining it under his own management for such period as he thinks fit, or

(b) by settling it with any person for such period and on such terms as may be fixed by the Collector, or

(c) by a combination of the two methods aforesaid, so however that the total period for which the land is so retained or settled does not exceed ten years.

(2) In settling the land with any person under sub-section (1) the Collector shall offer it first to the owner who on the date of taking possession was in lawful possession of the land, or was entitled to such possession or his successor in interest.

22. No claim of the landlord to arrears of rent accrued due in respect of the land for the period prior to the date of taking possession shall thereafter be enforced by any Court, whether in execution of a decree or otherwise, against the Government or against any person holding the land under the Government or by the issue of any process against the land.

Claim for ar-
rears of rent
not to be en-
forced agai-
nst Govern-
ment, &c.

23. (1) When the reclamation of the land is in the opinion of the Collector complete and in any case before the expiry of a period of ten years from the date of taking possession, the Collector shall by order in writing, after making an inquiry in the prescribed manner,—

Termination
of possession
on comple-
tion of recla-
mation

(a) declare that possession of the land shall be restored on such date as may be specified in the order to the owner who on the date of taking possession was in lawful possession of the land or was entitled to such possession or his successor in interest ;

(b) determine the person to whom possession is to be so restored ;

(c) where such person is a tenant, determine the rent payable on account of the use or occupation of the land ; and

(d) where the land or any part thereof has been afforested, regulate the cutting of trees in such land.

(2) On the date specified in the said order possession of the land shall be deemed to have been delivered by the Government to the person determined under clause (b) of sub-section (1).

Compensation for period of possession

24. (1) As soon as may be after the date of taking possession of the land, the Collector shall make an inquiry in the prescribed manner and determine—

(a) in respect of any land which on the said date was in the occupation of a tenant,—

(i) the annual rent payable by him, and

(ii) the average net annual income, if any, after deducting rent, derived by him during the three years immediately preceding the said date ; and

(b) in respect of any other land, the average net annual income, if any, without deducting any land revenue payable, derived by the owner during the three years immediately preceding the said date.

(2) There shall be payable by the Government as compensation on each anniversary of the date of taking possession until the date referred to in sub-section (2) of section 23—

(a) in respect of such land as is referred to in clause (a) of sub-section (1), the amount determined under sub-clause (i) thereof to the land, and the amount determined under sub-clause (ii) thereof to the tenant, and

(b) in respect of any other land, the amount determined under clause (b) of sub-section (1) to the owner.

(3) For the purposes of this section "landlord" means the person under whom the tenant holds land and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land, and any reference to an owner, landlord or tenant shall be deemed to include a reference to the predecessors and successors in interest of the owner, landlord or tenant.

Accounts

25. The Collector shall maintain in such form, and in accordance with such rules, as may be prescribed an account of all receipts and payments by the Government in respect of the land, and any owner of, or other person having an interest in, the land may, on payment of a fee of eight annas, inspect the account.

Recovery of net expenditure incurred by Government

26. (1) The net expenditure incurred by the Government on the reclamation of the land under the provisions of this Chapter, or such part of that expenditure as the Chief Commissioner may by general or special order direct, together with interest calculated at the prescribed rate and in the prescribed manner, shall be recoverable as arrears of land revenue from the person to whom possession of the land is deemed under sub-section (2) of section 23 to have been delivered by the Government.

(2) The amount to be recovered under sub-section (1) from any person shall be decided by the Collector.

Appeals

27. Any person aggrieved by an order of the Collector under section 20, section 23, section 24 or sub-section (2) of section 26 may within the prescribed time and in the prescribed manner, appeal to the Chief Commissioner, and the decision of the Chief Commissioner on such appeal, and subject only to such decision, the order of the Collector, shall be final and shall not be called in question in any Court.

28. The taking and retaining of possession of any land on behalf of the Government under the provisions of this Chapter shall not affect the liability of any person for the payment of land-revenue, rate or cess in respect of the land for any period whether before or after the date of taking possession.

Continuance
of liability
for land-reve-
nue, rates
and cesses

CHAPTER IV

Control over Forests and Lands not being the Property of Government

29. The following amendments shall be made in the Indian Forest Act, 1927, in its application to the Province of Delhi, namely :—

Amendment
of Act XVI
of 1927 in
Delhi

(1) in sub-section (1) of section 35 of the said Act,—

(a) for the words "any forest or waste-land" the words "any forest, waste-land or grass-land" shall be substituted ;

(b) for clauses (b) and (c) the following clause shall be substituted, namely :—

"(b) the cutting of trees and timber ;

(c) the disposal of any forest produce ;

(d) the firing or clearing of vegetation ;

(e) the cutting, storage or conservation of grass or leaf fodder ; or

(f) the admission, herding or pasturing of cattle ;"

(2) in sub-section (2) of section 37 of the said Act, for the words "not less than three" the words "not less than seven" shall be substituted ;

(3) in sub-section (1) of section 38 of the said Act, for the word "two-thirds" the word "one-half" shall be substituted.

30. Without prejudice to the provisions of sub-section (3) of section 1 of the Indian Forest Act, 1927, the provisions of Chapter V of that Act shall apply to the Province of Ajmer-Merwara as they apply to the Province of Delhi.

Application of
Chapter V,
Act XVI of
1927 to Ajmer
a

CHAPTER V

Supplementary

31. (1) The Chief Commissioner may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the conduct of business by the Board and the procedure to be followed at meetings of the Board ;

(b) the procedure to be followed by Inquiry Officers under section 5 ;

(c) the manner of publishing under section 6 schemes and regulations in villages ;

(d) the principles on which the amounts of contribution are to be determined by the Board under sub-section (4) of section 9 or section 10 ;

(e) any matter which may be prescribed.

Protection of
action taken
under the Act

32. (1) No suit, prosecution or other proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided by or under this Act, no suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act.

STATEMENT OF OBJECTS AND REASONS

Although there is a fairly large amount of what is called culturable waste-land in this country, there is very little land left which can be readily brought under cultivation by the efforts of the villager. To add to the cultivated lands on any substantial scale and to bring about systematic improvement in the productivity of land, it is necessary to adopt scientific measures of soil and water conservation, irrigation, drainage, etc., on a large scale which is beyond the capacity of ordinary cultivators. Again, while the population is increasing rapidly, more land is going out of cultivation and other land is losing its fertility as a result of continuous soil erosion. The rain water, instead of being properly utilised for crop production, is allowed to wash away the top soil and decrease the fertility of the land which is already impoverished through insufficient manuring. Indiscriminate cutting of forests and overgrazing of pasture lands, while depleting the fuel and fodder supply of the country, are at the same time removing the soil cover and thereby helping the devastating process of erosion by rain and wind, and lowering the sub-soil water level so essential for cultivation. To prevent this continuous drain on the resources, to increase the fertility of land and to bring new areas under food and fodder crops or forests, it is essential to take up systematic soil and water conservation and other land development measures as is done in countries like America. Every citizen must be induced to so manage his land that he derives the maximum benefit for himself and the community in this scheme of co-ordinated land development. The Bill is accordingly designed to provide the necessary machinery for the preparation, execution and maintenance of land development projects, utilisation of waste lands and rehabilitation of forests and grass-lands.

RAJENDRA PRASAD.

NEW DELHI;

The 12th November, 1947.

NOTES ON CLAUSES 29 AND 30.

The Indian Forest Act, 1927, has been extended to the Delhi Province by notification under sub-section (3) of section 1 thereof. Chapter V of that Act empowers the Government to introduce measures designed to protect private forests for certain purposes, and to assume the management of the forests in case of neglect or wilful disobedience of such measures or at the request of the owners. The provisions are however restricted in scope, and it is accordingly proposed in clause 29 of the Bill that they should be extended by amending sections 35, 37 and 38 of the Act in their application to the Delhi Province.

The Act has not been extended to Ajmer-Merwara where the only law relating to forests is contained in the Ajmer Forest Regulation, 1874. Clause 30 of the Bill is designed to apply to that Province the provisions of Chapter V as amended by clause 29.

L. A. BILL No. 51 OF 1947

A bill to constitute an Indian Nursing Council.

WHEREAS it is expedient to constitute an Indian Nursing Council in order to establish a uniform standard of training for nurses, midwives and health visitors ;
It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Indian Nursing Council Act, 1947.

(2) It extends to all the Provinces of India.

(3) It shall come into force at once.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “ the Council ” means the Indian Council of Nursing constituted under this Act;

(b) “ prescribed ” means prescribed by regulations made under section 16 ;

(c) “ Provincial Council ” means a Council (by whatever name called) constituted under the law of a Province to regulate the registration of nurses, midwives or health visitors in the Province ;

(d) “ Provincial register ” means a register of nurses, midwives or health visitors maintained under the law of a Province.

3. Constitution and composition of the Council.—(1) The Central Government shall as soon as may be constitute a Council consisting of the following members, namely :—

(a) one nurse enrolled in a Provincial register elected by each Provincial Council ;

(b) one member elected from among themselves by the heads of institutions in which training is given in nursing administration to nurses enrolled in a Provincial register ;

(c) one member elected from among themselves by the heads of institutions in which health visitors are trained ;

(d) one member elected by the Medical Council of India ;

(e) one member elected by the Central Council of the Indian Medical Association ;

(f) one member elected by the Council of the Trained Nurses Association of India ;

(g) one midwife enrolled in a Provincial register, elected by each Provincial Council in rotation in the following order, namely :—

(i) Bombay, West Bengal, and East Punjab,

(ii) Madras, the United Provinces, and Orissa,

(iii) the Central Provinces and Berar, Bihar, and Assam ;

(h) the Director General of Health Services, *ex officio* ;

(i) the Chief Principal Matron, Medical Directorate, General Headquarters, *ex officio* ;

(j) the Chief Nursing Superintendent, office of the Director General of Health Services, *ex officio* ;

(k) the Director of Maternity and Child Welfare, Indian Red Cross Society, *ex officio* ;

(l) the Chief Administrative Medical Officer of each Governor's Province or if the Provincial Government in any case so directs, the Superintendent of Nursing (by whatever name called) in the office of the Chief Administrative Medical Officer of the Province, *ex officio*;

(m) four Provincial Directors of Public Health, *ex officio*, in rotation in the following order, namely :—

(i) Madras, the United Provinces, the Central Provinces and Berar and Bihar,

(ii) Bombay, West Bengal, East Punjab, and Assam;

(n) four members nominated by the Central Government, of whom at least two shall be nurses, midwives or health visitors enrolled in a Provincial register and one shall be an experienced educationalist.

(2) The President of the Council shall be elected by the members of the Council from among themselves:

Provided that for five years from the first constitution of the Council the President shall be a person nominated by the Central Government, who shall hold office during the pleasure of the Central Government and, where he is not already a member, shall be a member of the Council in addition to the members referred to in sub-section (1).

(3) No act done by the Council shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Council.

4. Incorporation of the Council.—The Council constituted under section 3 shall be a body corporate by the name of the Indian Nursing Council, having perpetual succession and a common seal, with power to acquire property both movable and immovable, and shall by the said name sue and be sued.

5. Mode of elections.—(1) Elections under sub-section (1) of section 3 by Provincial Councils shall be conducted in accordance with rules made in this behalf by the respective Provincial Governments, and where any dispute arises regarding any such election it shall be referred to the Provincial Government concerned whose decision shall be final.

(2) Other elections under that sub-section shall be conducted in the prescribed manner, and where any dispute arises regarding any such election it shall be referred to the Central Government whose decision shall be final.

6. Term of office and casual vacancies.—(1) Subject to the provisions of this section, an elected or nominated member, other than a nominated President, shall hold office for a term of five years from the date of his election or nomination or until his successor has been duly elected or nominated, whichever is longer.

(2) An elected or nominated member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) An elected or nominated member shall be deemed to have vacated his seat if he is absent without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council where the interval between the first and third of the said meetings exceeds six months.

(4) A casual vacancy in the Council shall be filled by fresh election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(5) Members of the Council shall be eligible for re-election or re-nomination.

(6) Members of the Council being Provincial Directors of Public Health should be deemed to be nominated members for the purposes of this section.

7. Meetings.—(1) The Council shall hold its first meeting at such time and place as may be appointed by the President, and thereafter the Council shall meet at such time and place as may be appointed by the Council.

(2) Until otherwise prescribed, ten members of the Council shall form a quorum, and all the acts of the Council shall be decided by a majority of the members present and voting.

8. Officers, committees and servants of the Council.—(1) The Secretary of the Council (who may also, if it is deemed expedient by the Council, act as Treasurer) shall, for three years from the first constitution of the Council, be a person appointed by the Central Government and shall hold office during the pleasure of the Central Government.

(2) The Council shall—

(a) elect from among its members a Vice-President ;

(b) constitute from among its members an Executive Committee and such other committees for general or special purposes as the Council deems necessary to carry out the purposes of this Act ;

(c) subject to the provisions of sub-section (1), appoint a Secretary, who may also, if deemed expedient, act as Treasurer ;

(d) appoint or nominate such other officers and servants as the Council deems necessary to carry out the purposes of this Act ;

(e) require and take from the Secretary, or from any other officer or servant, such security for the due performance of his duties as the Council deems necessary ;

(f) with the previous sanction of the Central Government, fix the fees and allowances to be paid to the President, Vice-President and members and the pay and allowances of officers and servants of the Council.

9. The Executive Committee.—(1) The Executive Committee shall consist of nine members, of whom seven shall be elected by the Council from among its members.

(2) The President and Vice-President of the Council shall be members *ex officio* of the Executive Committee, and shall be President and Vice-President, respectively, of that Committee.

(3) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any regulations which may be made in this behalf.

10. Recognition of qualifications.—(1) For the purposes of this Act, the qualifications included in the Schedule shall be recognised qualifications, and the qualifications included in Part II of the Schedule shall be recognised higher qualifications.

(2) Any authority within the Provinces of India which, being recognised by the Provincial Government for the purpose of granting any qualification, grants a qualification in general nursing, midwifery, health visiting or public health nursing, not included in the Schedule may apply to the Council to have such qualification recognised, and the Council may declare that such qualification, or such qualification only when granted after a specified date, shall be a recognised qualification for the purposes of this Act.

(3) The Council may enter into negotiations with any authority in any State or country outside the Provinces of India which by the law of such State or country is entrusted with the maintenance of a register of nurses, midwives or health visitors, for the settling of a scheme of reciprocity for the recognition of qualifications, and in pursuance of any such scheme the Council may declare that a qualification granted by any authority in any such State or country, or such qualification only when granted after a specified date, shall be a recognised qualification for the purposes of this Act:

Provided that no declaration shall be made under this sub-section in respect of any qualification unless by the law and practice of the State or country in which the qualification is granted persons domiciled or originating in any Province of India and holding qualifications recognised under this Act are permitted to enter and practise the nursing profession in that State or country:

Provided further that—

(i) any reciprocal arrangements subsisting at the date of the commencement of this Act between a Provincial Council and any authority outside India for the recognition of qualifications shall, subject to any earlier termination of the arrangements in accordance with the terms thereof, continue in force, and

(ii) any qualification granted by an authority in any Indian State and recognised on the said date by a Provincial Council shall continue to be a recognised qualification for the purpose of registration in the Province until the expiry of three years from the said date, or until a scheme of reciprocity is concluded by the Council under this sub-section with the authority concerned, whichever is earlier.

(4) The provisions of sub-sections (2) and (3) and of sections 14 and 15 shall apply *mutatis mutandis* to the declaration by the Council of a qualification granted in respect of post-certificate nursing training as a recognised higher qualification.

11. Effect of recognition.—Notwithstanding anything contained in any other law,—

(a) any recognised qualification shall be a sufficient qualification for enrolment in any Provincial register;

(b) no person shall, after the date of the commencement of this Act, be entitled to be enrolled in any Provincial register as a nurse, midwife, health visitor, or public health nurse unless he or she holds a recognised qualification:

Provided that any person already enrolled in any Provincial register before the said date may continue to be so enrolled notwithstanding that he or she may not hold a recognised qualification:

Provided further that any person who was immediately before the said date entitled to be enrolled in any Provincial register but was not so enrolled shall, on application made in this behalf before the expiry of two years from the said date be entitled to be enrolled in that register;

(c) any person holding a recognised higher qualification shall be entitled to have the qualification entered as a supplementary qualification in any Provincial register in which he or she is enrolled, and after the said date no person shall be entitled to have entered as a supplementary qualification in any Provincial register any qualification which is not a recognised higher qualification.

12. Power to require information as to courses of study and training and examinations.—Every authority in any Province of India which grants a recognised qualification or a recognised higher qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and training and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualifications conferred, and generally as to the requisites for obtaining such qualification.

13. Inspections.—(1) The Executive Committee may appoint such number of inspectors as it deems necessary to inspect any institution recognised as a training institution, and to attend examinations held for the purpose of granting any recognised qualification or recognised higher qualification.

(2) Inspectors appointed under this section shall report to the Executive Committee on the suitability of the institution for the purposes of training and on the adequacy of the training therein or as the case may be, on the efficiency of the examinations.

(3) The Executive Committee shall forward a copy of such report to the authority or institution concerned, and shall also forward copies, with the remarks, if any, of the authority or institution concerned thereon, to the Central Government and to the Provincial Government and Provincial Council of the Province in which the authority or institution is situated.

14. Withdrawal of recognition.—(1) When, upon report by the Executive Committee, it appears to the Council—

(a) that the courses of study and training and the examinations to be gone through in order to obtain a recognised qualification from any authority in any Province of India, or the conditions for admission to such courses or the standards of proficiency required from the candidates at such examinations are not in conformity with the regulations made under this Act or fall short of the standards required thereby, or

(b) that an institution recognised by a Provincial Council for the training of nurses, midwives or health visitors does not satisfy the requirements of the Council,—

the Council may send to the Government of the Province in which the authority or institution, as the case may be, is situated a statement to such effect, and the Provincial Government shall forward it, along with such remarks as it may think fit to the authority or institution concerned and, in a case referred to in clause (b) to the Provincial Council also, with an intimation of the period within which the authority or institution may submit its explanation to the Provincial Government.

(2) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of the period, the Provincial Government shall make its recommendations to the Council.

(3) The Council, after such further inquiry, if any, as it may think fit to make, and in a case referred to in clause (b) of sub-section (1), after considering any remarks which the Provincial Council may have addressed to it, may declare,—

(a) in a case referred to in clause (a) of that sub-section, that the qualifications granted by the authority concerned shall be recognised qualifications only when granted before a specified date, or

(b) in a case referred to in the said clause (b), that with effect from a date specified in the declaration any person holding a recognised qualification whose period of training and study preparatory to the grant to him of the qualification was passed at the institution concerned shall be entitled to be registered only in the Province in which the institution is situated.

(4) The Council may declare that any recognised qualification granted outside the Provinces of India shall be a recognised qualification only if granted before a specified date.

15. Mode of declarations.—All declarations under section 10 or section 14 shall be made by resolution passed at a meeting of the Council called for the purpose, and shall forthwith be published in the official Gazette.

16. Power to make regulations.—(1) The Council may make regulations not inconsistent with this Act generally to carry out the provisions of this Act, and in particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the management of the property of the Council and the maintenance and audit of its accounts ;

(b) the manner in which elections referred to in sub-section (2) of section 5 and in clause (a) of sub-section (2) of section 8 shall be conducted ;

(c) the summoning and holding of the meetings of the Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum ;

(d) prescribing the functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum ;

(e) prescribing the powers and duties of the President and the Vice-President ;

(f) prescribing the tenure of office and the powers and duties of the Secretary, inspectors, visitors and other officers and servants of the Council ;

(g) prescribing the standard curricula for the training of nurses, midwives and health visitors, for training courses for teachers of nurses, midwives and health visitors, and for training in nursing administration ;

(h) prescribing the conditions for admission to courses of training as aforesaid ;

(i) prescribing the standards of examination and other requirements to be satisfied to secure for qualifications recognition under this Act ;

(j) any other matter which is to be or may be prescribed under this Act.

(2) To enable the Council to be first constituted, the President may, with the previous sanction of the Central Government, make regulations for the conduct of the elections referred to in sub-section (2) of section 5, and any regulations so made may be altered or rescinded by the Council in exercise of its powers under this section.

17. Repeal of Ordinance XIII of 1947.—(1) The Central Nursing Council Ordinance, 1947, is hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall, so far as it is not inconsistent with this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act had commenced on the 13th day of August, 1947.

THE SCHEDULE

(See sections 10 and 11.)

PART I

Recognised qualifications

A—General Nursing—

Certificates (including senior and junior certificates) and Diplomas in Nursing issued by any of the following authorities, namely :—

1. The Examination Board appointed by the Government of Madras.
2. The Bombay Nurses, Midwives and Health Visitors Council.
3. The Bombay Presidency Nursing Association (when issued before the 1st day of January, 1936).

4. The Bengal Nursing Council.
5. The United Provinces State Medical Faculty.
6. The United Provinces Nurses and Midwives Council.
7. The State Board of Medical Examinations, United Provinces.
8. The Punjab Nurses Registration Council.
9. The Bihar Medical Examination Board.
10. The Bihar Nurses Registration Council.
11. The Central Provinces Medical Examination Board.
12. The Assam Nurses, Midwives and Health Visitors Council.
13. The Orissa Medical Examination Board.
14. The Mid-India United Board of Examiners for Nurses.
15. The Joint Missionary Board for Examination of Nurses (Marathi area).
16. The North India United Board of Examiners for Mission and other Hospitals.
17. The Examining Board of the Nurses Auxiliary of the Christian Medical Association of India (South India Branch).

B—Midwifery—

Certificates or Diplomas in Midwifery issued by any of the following authorities namely :—

1. Any of the authorities mentioned in section A except item No. 17 thereof.
2. The Punjab Central Midwives Board.
3. The Mid-India United Board of Examiners for Midwifery.
4. The National Association for supplying female medical aid to the Women of India.

C—Health Visitors—

Health Visitors Certificates or Diplomas issued by any of the following authorities, namely :—

1. The Government Training School for Health Visitors, Madras.
2. The Sir John Anderson Health School, Calcutta.
3. The United Provinces State Medical Faculty.
4. The United Provinces Nurses and Midwives Council.
5. The Government Health School, Nagpur.
6. The Assam Nurses, Midwives and Health Visitors Council.
7. The Lady Beading Health School, Delhi.
8. The Bombay Nurses, Midwives and Health Visitors Council.
9. The Bengal Nursing Council.

PART II

Recognised higher qualifications

Certificates or Diplomas in respect of post-certificate nursing training issued by the following authorities, namely :—

1. The Examination Board appointed by the Government of Madras.
2. The College of Nursing, Delhi.
3. The Bombay Nurses, Midwives and Health Visitors Council.
4. The Missionary Medical College School of Nursing, Vellore.

STATEMENT OF OBJECTS AND REASONS

Provincial Nursing Councils have been established in all Provinces and maintain registers of qualified nurses, health visitors and midwives. Increasing difficulties have been experienced by the nursing profession and by employing authorities owing to the diversity in the standards of preliminary education of candidates entering training schools of nursing, the varying standards of training and examination for nursing certificates and the lack of inter-provincial reciprocity in the registration of nurses. To remedy these difficulties it is proposed to enact legislation for the purpose of setting up an Indian Nursing Council which will prescribe uniform minimum standards of education and training for nurses, midwives and health visitors, supervise examinations, and maintain a schedule of qualifications recognised for registration throughout India. To avoid delay an Ordinance was passed in August, 1947 for this purpose. The Ordinance will be repealed by this Act.

AMRIT KAUR

NEW DELHI;

The 8th November, 1947.

L. A. BILL No. 52 of 1947.

A Bill to regulate the profession of pharmacy.

WHEREAS it is expedient to make better provision for the regulation of the profession of pharmacy and for that purpose to constitute Pharmacy Councils; It is hereby enacted as follows:—

CHAPTER I

INTRODUCTORY

1. Short title, extent and commencement.—(1) This Act may be called the Pharmacy Act, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force at once, but Chapters III, IV and V shall take effect in a particular Province only from such date as the Provincial Government may, by notification in the official Gazette, appoint in this behalf.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “agreement” means an agreement entered into under section 20;

(b) “approved” means approved by the Central Council under section 12 or section 14;

(c) “Indian University” means a university in any Province of India established by an Indian law;

(d) “Central Council” means the Pharmacy Council of India constituted under section 3;

(e) “Executive Committee” means the Executive Committee of the Central Council or of the Provincial Council, as the context may require;

(f) “medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916) or in the Schedules to the Indian Medical Council Act 1933 (XXVII of 1933);

(g) “prescribed” means in Chapter II prescribed by regulations made under section 18, and elsewhere prescribed by rules made under section 45;

(h) "Provincial Council" means a Provincial Council of Pharmacy constituted under section 19, and includes a Joint Provincial Council of Pharmacy constituted in accordance with an agreement under section 20;

(i) "register" means a register of pharmacists prepared and maintained under Chapter IV;

(j) "registered pharmacist" means a person whose name is for the time being entered on the register of the Province in which he is for the time being residing or carrying on his profession or business of pharmacy.

CHAPTER II.

THE PHARMACY COUNCIL OF INDIA

3. Constitution and composition of Central Council.—The Central Government shall, as soon as may be, constitute a Central Council consisting of the following members, namely:—

(a) six members, among whom there shall at all times be at least one teacher of each of the subjects, pharmaceutical chemistry, pharmacy and pharmacognosy elected by the authority known as the Inter-University Board from among persons on the teaching staffs of Indian Universities which grant a degree or diploma in pharmacy;

(b) five members, of whom at least three shall at all times be persons possessing a degree or diploma in pharmacy or pharmaceutical chemistry, nominated by the Central Government;

(c) one member elected by the Medical Council of India;

(d) the Director General, Health Services, *ex officio*;

Provided that if he is for any reason unable to be present at a meeting, he may in writing authorise a person to attend the meeting in his stead, and such person may take part in the discussions of the meeting but may not vote;

(e) the Director of the Central Drugs Laboratory, *ex officio*;

(f) the Chief Chemist, Central Revenues, *ex officio*;

(g) one member to represent each Governor's Province elected by the Provincial Council concerned;

Provided that for four years from the first constitution of the Central Council, in the stead of members elected under clause (g), each Government of the Governors' Provinces shall nominate one member, being a person eligible for registration as a pharmacist under section 31.

4. Incorporation of Central Council.—The Council constituted under section 3 shall be a body corporate by the name of the Pharmacy Council of India, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and shall by the said name sue and be sued.

5. President and Vice-President of Central Council.—(1) The President and Vice-President of the Central Council shall be elected by the members of the said Council from among themselves:

Provided that for four years from the first constitution of the Central Council the President shall be a person nominated by the Central Government who shall hold office at the pleasure of the Central Government and where he is not already a member, shall be a member of the Central Council in addition to the members referred to in section 3.

(2) An elected President or Vice-President shall hold office as such for a term not exceeding four years and not extending beyond the expiry of his term as member of the Central Council, but subject to his being a member of the Central Council, he shall be eligible for re-election.

6. Mode of elections.—Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election it shall be referred to the Central Government whose decision shall be final.

7. Term of office and casual vacancies.—(1) Subject to the provisions of this section, a nominated or elected member, other than a nominated President, shall hold office for a term of four years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer:

Provided that three of the members elected at the first election under clause (a) of section 3, two of the five members first nominated under clause (b) of that section and five of the members elected at the first election under clause (g) of that section (to be chosen in each case by lot under the supervision of the President and in such manner as he may decide) shall hold office for six years or until their respective successors have been duly elected or nominated, whichever is longer.

(2) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) A nominated or elected member shall be deemed to have vacated his seat if he is absent without excuse sufficient in the opinion of the Central Council from three consecutive meetings of the Central Council.

(4) A casual vacancy in the Central Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected.

(5) No act done by the Central Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Central Council.

(6) Members of the Central Council shall be eligible for re-nomination or re-election.

8. Staff, remuneration and allowances.—(1) The Central Council may appoint a Secretary who may also, if deemed expedient, act as Treasurer.

(2) The Central Council may, with the previous sanction of the Central Government,—

(a) appoint such other officers and servants as may be required to enable the Central Council to carry out its functions under this Act;

(b) fix the salaries and allowances and other conditions of service of the Secretary and other officers and servants;

(c) fix the rates of allowances payable to members of the Central Council.

9. The Executive Committee.—(1) The Central Council shall, as soon as may be, constitute an Executive Committee consisting of the President (who shall be Chairman of the Executive Committee) and Vice-President, *ex officio*, and five other members elected by the Central Council from among its members.

(2) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the Central Council, but, subject to his being a member of the Central Council, he shall be eligible for re-election.

(3) In addition to the powers and duties conferred and imposed upon it by this Act the Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

10. Education Regulations.—(1) Subject to the provisions of this section, the Central Council may make regulations, to be called the Education Regulations, prescribing the minimum standard of education required for qualification as a pharmacist.

(2) In particular and without prejudice to the generality of the foregoing power, the Education Regulations may prescribe—

(a) the nature and period of study and of practical training to be undertaken before admission to an examination,

(b) the equipment and facilities to be provided for students undergoing approved courses of study;

(c) the subjects of examination and the standards therein to be attained;

(d) any other conditions of admission to examinations.

(3) Copies of the draft of the Education Regulations and of all subsequent amendments thereof shall be furnished by the Central Council to the Central Government and all Provincial Governments, and the Central Council shall before publishing the Education Regulations or any amendment thereof, as the case may be, take into consideration any comments of the Central Government or any Provincial Government received within three months from the furnishing of the copies as aforesaid.

(4) The Education Regulations shall be published in the official Gazette and in such other manner as the Central Council may direct.

(5) The Executive Committee shall from time to time report to the Central Council on the efficacy of the Education Regulations and may recommend to the Central Council such amendments thereof as it may think fit.

11. Application of Education Regulations to Provinces.—At any time after the constitution of the Provincial Council under Chapter III and after consultation with the Provincial Council, the Provincial Government may, by notification in the official Gazette, declare that the Education Regulations shall take effect in the Province:

Provided that where no such declaration has been made, the Education Regulations shall take effect in the Province on the expiry of three years from the date of the constitution of the Provincial Council, unless the Provincial Government, by notification in the official Gazette, postpones such taking effect for such period, not exceeding two years at any one time, as may be specified in the notification.

12. Approved courses of study and examinations.—(1) Any authority in the Provinces of India which conducts a course of study for pharmacists may apply to the Central Council for approval of the course, and the Central Council, where after such inquiry as it may think fit to make, it is satisfied that the said course of study is in conformity with the Education Regulations, shall declare the said course of study to be an approved course of study for the purpose of admission to an approved examination for pharmacists.

(2) Any authority in the Provinces of India which holds an examination in pharmacy may apply to the Central Council for approval of the examination, and the Central Council, where after such inquiry as it may think fit to make, it is satisfied that the said examination is in conformity with the Education Regulations, shall declare the said examination to be an approved examination for the purpose of qualifying for registration as a pharmacist under this Act.

13. Withdrawal of approval.—(1) Where the Executive Committee reports to the Central Council that an approved course of study or an approved examination does not continue to be in conformity with the Education Regulations, the Central Council shall give notice to the authority concerned of its intention to take into consideration the question of withdrawing the declaration of approval accorded to the course of study or examination as the case may be, and the said authority may within three months from the receipt of such notice forward to the Central Council through the Provincial Government such representation in the matter as it may wish to make.

(2) After considering any representation which may be received from the authority concerned and any observations thereon which the Provincial Government may think fit to make, the Council may declare that the course of study or the examination shall be deemed to be approved only when completed or passed, as the case may be, before a specified date.

14. Qualifications granted outside the Provinces of India.—The Central Council, if it is satisfied that any qualification in pharmacy granted by an authority outside the Provinces of India affords a sufficient guarantee of the requisite skill and knowledge, may declare such qualification to be an approved qualification for the purpose of qualifying for registration under this Act, and may for reasons appearing to it sufficient at any time declare that such qualification shall be deemed to be approved only when granted before a specified date.

15. Mode of declarations.—All declarations under section 12, section 13 or section 14 shall be made by resolution passed at a meeting of the Central Council, and shall forthwith be published in the official Gazette.

16. Inspection.—(1) The Executive Committee may appoint such number of Inspectors as it may deem requisite for the purposes of this Chapter.

(2) An Inspector may—

- (a) inspect any institution which provides an approved course of study;
- (b) attend at any approved examination,
- (c) inspect any institution whose authorities have applied for the approval of its course of study or examination under this Chapter, and attend at any examination of such institution.

(3) An Inspector attending at any examination under sub-section (2) shall not interfere with the conduct of the examination, but he shall report to the Executive Committee on the sufficiency of every examination he attends and on any other matter in regard to which the Executive Committee may require him to report.

(4) The Executive Committee shall forward a copy of every such report to the authority concerned, and shall also forward a copy together with any comments thereon which the said authority may have made, to the Central Government.

17. Information to be furnished.—(1) The Central Council shall furnish copies of its minutes and of the minutes of the Executive Committee and an annual report of its activities together with an abstract of its accounts to the Central Government.

(2) The Central Government may publish in such manner as it may think fit any report, copy or abstract, furnished to it under this section or under section 16.

18. Power to make regulations.—(1) The Central Council may make regulations consistent with this Act to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the management of the property of the Central Council and the maintenance and audit of its accounts;

(b) the manner in which elections under this Chapter shall be conducted;

(c) the summoning and holding of meetings of the Central Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(d) the functions of the Executive Committee, the summoning and holding meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum;

(e) the powers and duties of the President and Vice-President;

(f) the tenure of office and the powers and duties of the Secretary, Inspectors and other officers and servants of the Central Council, including the amount and nature of the security to be furnished by the Treasurer.

(3) Until regulations are made by the Central Council under this section, the President may, with the previous sanction of the Central Government, make such regulations under this section, including those to provide for the manner in which the first elections to the Central Council shall be conducted, as may be necessary for carrying into effect the provisions of this Chapter, and any regulations so made may be altered or rescinded by the Central Council in exercise of its powers under this section.

CHAPTER III

PROVINCIAL PHARMACY COUNCILS

19. Constitution and composition of Provincial Councils.—Except where a Joint Provincial Council is constituted in accordance with an agreement made under section 20, the Provincial Government shall constitute a Provincial Council consisting of the following members, namely:—

(a) six members, elected from among themselves by registered pharmacists of the Province;

(b) five members, of whom at least two shall at all times be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or members of the pharmaceutical profession, nominated by the Provincial Government;

(c) one member elected by the Medical Council (by whatever name called) of the Province;

(d) the chief administrative medical officer of the Province, *ex officio*:

Provided that if he is for any reason unable to be present at a meeting, he may in writing authorise a person to attend the meeting in his stead, and such person may take part in the discussions of the meeting but may not vote;

(e) the Government Analyst under the Drugs Act, 1940 (XXIII of 1940), *ex officio*, or where there is more than one, such one as the Provincial Government may appoint in this behalf:

Provided that where an agreement is made under clause (b) of sub-section (1) of section 20, the agreement may provide that the Provincial Council to serve the needs of the other participating Provinces also shall be augmented by not more than two members, of whom at least one shall at all times be a person possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or a member of the pharmaceutical profession, nominated by the Governments of each of the said other participating Provinces, and where the agreement so provides, the composition of the Provincial Council shall be deemed to be augmented accordingly.

20. Inter-provincial agreements.—(1) Two or more Provincial Governments may enter into an agreement to be in force for such period and to be subject to renewal for such further periods, if any, as may be specified in the agreement, to provide—

(a) for the constitution of a Joint Provincial Council for all the participating Provinces, or

(b) that the Provincial Council of one Province shall serve the needs of the other participating Provinces.

(2) In addition to such matters as are in this Act specified, an agreement under this section may—

(a) provide for the apportionment between the participating Provinces of the expenditure in connection with the Provincial Council or Joint Provincial Council;

(b) determine which of the participating Provincial Governments shall exercise the several functions of the Provincial Government under this Act, and the references in this Act to the Provincial Government shall be construed accordingly;

(c) provide for consultation between the participating Provincial Governments either generally or with reference to particular matters arising under this Act;

(d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published in the official Gazette of the participating Provinces.

21. Composition of Joint Provincial Councils.—A Joint Provincial Council shall consist of the following members, namely:—

(a) such number of members, being not less than three and not more than five as the agreement shall provide, elected from among themselves by the registered pharmacists of each of the participating Provinces;

(b) such number of members, being not less than two and not more than four as the agreement shall provide, nominated by each participating Provincial Government;

(c) one member elected by the Medical Council (by whatever name called) of each participating Province;

(d) the chief administrative medical officer of each participating Province, *ex officio*;

Provided that, if any such officer is for any reason unable to be present at a meeting, he may in writing authorise a person to attend the meeting in his stead, and such person may take part in the discussions of the meeting but may not vote;

(e) the Government Analyst under the Drugs Act, 1940 (XXIII of 1940) of each participating Province, *ex officio*, or where there is more than one in any such Province, such one as the Provincial Government may appoint in this behalf.

(2) The agreement may provide that within the limits specified in clauses (a) and (b) of sub-section (1), the number of members to be elected or nominated under those clauses may or may not be the same in respect of each participating Province.

(3) Of the members nominated by each Provincial Government under clause (b) of sub-section (1), at least half shall at all times be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or members of the pharmaceutical profession.

22. Incorporation of Provincial Councils.—Every Provincial Council shall be a body corporate by such name as may be notified by the Provincial Government in the official Gazette or, in the case of a Joint Provincial Council, as may be determined in the agreement, having perpetual succession and a common seal, with power to acquire or hold property both movable and immovable and shall by the said name sue and be sued.

23. President and Vice-President of Provincial Council.—(1) The President and Vice-President of the Provincial Council shall be elected by the members from among themselves:

Provided that for four years from the first constitution of the Provincial Council the President shall be a person nominated by the Provincial Government who shall hold office at the pleasure of the Provincial Government and where he is not already a member, shall be a member of the Provincial Council in addition to the members referred to in section 19 or section 21, as the case may be.

(2) An elected President or Vice-President shall hold office as such for a term not exceeding four years and not extending beyond the expiry of his term as a member of the Provincial Council but subject to his being a member of the Provincial Council he shall be eligible for re-election.

24. Mode of elections.—Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the Provincial Government whose decision shall be final.

25. Term of office and casual vacancies.—(1) Subject to the provisions of this section, a nominated or elected member, other than a nominated President, shall hold office for a term of four years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer:

Provided that three of the members elected at the first election under clause (a) of section 19, two of the members nominated on the first constitution of the Provincial Council under clause (b) of that section, half of the number of members nominated on the first constitution of the Provincial Council under the proviso to the said section, half of the number of members elected at the first election under clause (u) of sub-section (1) of section 21 and half of the number of members nominated on the first constitution of a Joint Provincial Council under clause (b) of that sub-section (to be chosen in each case by lot under the supervision of the President and in such manner as he may decide) shall hold office for six years or until their respective successors have been duly elected or nominated, whichever is longer.

Explanation.—The expression “half” in the proviso to this sub-section means in relation to an odd number the whole number next below the arithmetical half of such odd number.

(2) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) A nominated or elected member shall be deemed to have vacated his seat if he is absent without excuse sufficient in the opinion of the Provincial Council from three consecutive meetings of the Provincial Council.

(4) A casual vacancy in the Provincial Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected.

(5) No act done by the Provincial Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Provincial Council.

(6) Members of the Provincial Council shall be eligible for renomination or re-election.

26. Staff, remuneration and allowances.—The Provincial Council may, with the previous sanction of the Provincial Government,—

(a) appoint a Registrar who shall also act as Secretary and, if deemed expedient, Treasurer, of the Provincial Council;

(b) appoint such other officers and servants as may be required to enable the Provincial Council to carry out its functions under this Act;

(c) fix the salaries and allowances and other conditions of service of the Secretary and other officers and servants of the Provincial Council;

(d) fix the rates of allowances payable to members of the Provincial Council.

27. The Executive Committee.—(1) The Provincial Council shall, as soon as may be, constitute an Executive Committee consisting of the President (who shall be Chairman of the Executive Committee) and Vice-President, *ex officio*, and such number of other members elected by the Provincial Council from among themselves as may be prescribed.

(2) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the Provincial Council, but, subject to his being a member of the Provincial Council, he shall be eligible for re-election.

(3) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

28. Information to be furnished.—(1) The Provincial Council shall furnish such reports, copies of its minutes and of the minutes of the Executive Committee, and abstracts of its accounts to the Provincial Government as the Provincial Government may from time to time require.

(2) The Provincial Government may publish, in such manner as it may think fit, any report, copy, abstract or other information furnished to it under this section.

CHAPTER IV

REGISTRATION OF PHARMACISTS

29. Preparation and maintenance of register.—(1) As soon as may be after this Chapter has taken effect in any Province, the Provincial Government shall cause to be prepared in the manner hereinafter provided a register of pharmacists for the Province.

(2) The Provincial Council shall upon its constitution assume the duty of maintaining the register in accordance with the provisions of this Act.

(3) The register shall include the following particulars, namely:—

(a) the full name and residential address of the registered person;

(b) the date of his first admission to the register;

(c) his qualifications for registration;

(d) his professional address, and if he is employed by any person, the name of such person;

(e) such further particulars as may be prescribed.

30. Preparation of first register.—(1) For the purpose of preparing the first register, the Provincial Government shall by notification in the official Gazette constitute a Registration Tribunal consisting of three persons, and shall also appoint a Registrar who shall act as Secretary of the Registration Tribunal.

(2) The Provincial Government shall, by the same or a like notification, appoint a date on or before which applications for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under section 31, shall direct the entry of the name of the applicant on the register.

(4) The first register so prepared shall thereafter be published in such manner as the Provincial Government may direct, and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register as so published may, within thirty days from the date of such publication, appeal to an authority appointed by the Provincial Government in this behalf by notification in the official Gazette.

(5) The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form.

(6) Upon the constitution of the Provincial Council, the register shall be given into its custody, and the Provincial Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the Provincial Council.

31. Qualifications for entry on first register.—A person shall be entitled on payment of the prescribed fee to have his name entered in the first register if he resides, or carries on the business or profession of pharmacy, in the Province and if he—

(a) holds a degree or diploma in pharmacy or pharmaceutical chemistry of an Indian University or a prescribed qualification granted by an authority outside the Provinces of India, or

(b) holds a degree of an Indian University other than a degree in pharmacy or pharmaceutical chemistry, and has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than three years, or

(c) has passed an examination recognised as adequate by the Provincial Government for compounders or dispensers, or

(d) has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than five years.

32. Qualifications for subsequent registration.—(1) After the date appointed under sub-section (2) of section 30 and before the Education Regulations have, by or under section 11, taken effect in the Province, a person shall on payment of the prescribed fee be entitled to have his name entered in the register if he resides or carries on the business or profession of pharmacy in the Province and if he—

(a) satisfies the prescribed conditions, or where no conditions have been prescribed, the conditions entitling a person to have his name entered on the first register as set out in section 31, or

(b) is a registered pharmacist in another Province, or

(c) possesses a qualification approved under section 14:

Provided that no person shall be entitled under this sub-section to have his name entered on the register unless he has passed a matriculation examination or an examination prescribed as being equivalent to a matriculation examination.

(2) After the Education Regulations have by or under section 11 taken effect in the Province, a person shall on payment of the prescribed fee be entitled to have his name entered on the register if he has attained the age of twenty-one years, if he resides, or carries on the business or profession of pharmacy, in the Province and if he has passed an approved examination or possesses a qualification approved under section 14.

33. Scrutiny of applications for registration.—(1) After the date appointed under sub-section (2) of section 30, applications for registration shall be addressed to the Registrar of the Provincial Council and shall be accompanied by the prescribed fee

(2) If upon such application the Registrar is of opinion that the applicant is entitled to have his name entered in the register under the provisions of this Act for the time being applicable, he shall enter the name of the applicant in the register:

Provided that no person whose name has under the provisions of this Act been removed from the register of any Province shall be entitled to have his name entered in the register except with the approval of the Provincial Council recorded at a meeting

(3) Any person whose application for registration is rejected by the Registrar, may within three months from the date of such rejection appeal to the Provincial Council and the decision of the Provincial Council thereon shall be final.

(4) Upon entry in the register of a name under this section the Registrar shall issue a certificate of registration in the prescribed form.

34. Renewal fees.—(1) The Provincial Government may, by notification in the official Gazette, direct that for the retention of a name on the register after the 31st day of December of the year following the year in which the name is first entered on the register, there shall be paid annually to the Provincial Council such renewal fee as may be prescribed, and where such direction has been made, such renewal fee shall be due to be paid before the first day of April of the year to which it relates.

(2) Where a renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register:

Provided that a name so removed may be restored to the register on payment, at any time during the remaining nine months of the year, of double the renewal fee prescribed

(3) On payment of the renewal fee, the Registrar shall in the prescribed manner endorse the certificate of registration accordingly.

(4) A person whose name is removed from the registrar under sub-section (2) and not restored thereto under the proviso to that sub-section, shall not be entitled to be again registered except with the approval of the Provincial Council and on such conditions as to payment of fees as it may direct.

35. Entry of additional qualifications.—A registered pharmacist shall on payment of the prescribed fee be entitled to have entered in the register any further degrees or diplomas in pharmacy or pharmaceutical chemistry which he may obtain.

36. Removal from register.—(1) Subject to the provisions of this section, the Executive Committee may order that the name of a registered pharmacist shall be removed from the register, where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make,—

(i) that his name has been entered in the register in error or on account of misrepresentation or suppression of a material fact, or

(ii) that he has been convicted of any such offence or has been guilty of any such misconduct as in the opinion of the Executive Committee renders him unfit to be a registered pharmacist, or

(iii) that a person employed by him for the purposes of his business of pharmacy has been convicted of any such offence or has been guilty of any such misconduct as would, if such person were a registered pharmacist, render him liable to have his name removed from the register under clause (ii):

Provided that no such order shall be made under clause (iii) unless the Executive Committee is satisfied—

(a) that the offence or misconduct was instigated or connived at by the registered pharmacist, or

(b) that the registered pharmacist has at any time during the period of twelve months immediately preceding the date on which the offence or misconduct took place, committed a similar offence or been guilty of similar misconduct, or

(c) that any person employed by the registered pharmacist for the purposes of his business of pharmacy has at any time during the period of twelve months immediately preceding the date on which the offence or misconduct took place, committed a similar offence or been guilty of similar misconduct, and that the registered pharmacist had, or reasonably ought to have had, knowledge of such previous offence or misconduct, or

(d) that where the offence or misconduct continued over a period, the registered pharmacist had, or reasonably ought to have had, knowledge of the continuing offence or misconduct, or

(e) that where the offence is an offence under the Drugs Act, 1940 (XXIII of 1940), the registered pharmacist has not used due diligence in enforcing compliance with the provisions of that Act in his place of business and by persons employed by him.

(2) An order under sub-section (1) may direct that the person whose name is ordered to be removed from the register shall be ineligible for registration in the Province under this Act either permanently or for such period of years as may be specified.

(3) An order under sub-section (1) shall be subject to the confirmation by the Provincial Council and shall not take effect until the expiry of three months from the date of such confirmation.

(4) A person aggrieved by an order under sub-section (1) which has been confirmed by the Provincial Council may, within thirty days from the communication to him of such confirmation, appeal to the Provincial Government, and the order of the Provincial Government upon such appeal shall be final.

(5) A person whose name has been removed from the register under this section or under sub-section (2) of section 34 shall forthwith surrender his certificate of registration to the Registrar, and names so removed shall be published in the official Gazette.

37. Restoration to register.—The Executive Committee may at any time for reasons appearing to it sufficient order that upon payment of the prescribed fee the name of a person removed from the register shall be restored thereto:

Provided that where an appeal against such removal has been rejected by the Provincial Government, an order under this section shall not take effect until it has been confirmed by the Provincial Council.

38. Bar of other jurisdiction.—No order refusing to enter a name on the register or removing a name from the register shall be called in question otherwise than in the manner provided in this Act.

39. Issue of duplicate certificates of registration.—Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate in the prescribed form.

40. Printing of register.—As soon as may be after the first day of April in each year, the Registrar shall cause to be printed copies of the register as it stood on the said date, and such copies shall be made available to persons applying therefor on payment of the prescribed charge, and shall be evidence that on the said date the persons whose names are entered therein were registered pharmacists.

CHAPTER V

MISCELLANEOUS

41. Penalty for falsely claiming to be registered.—(1) If any person whose name is not for the time being entered on the register of the Province falsely pretends that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable with fine which may extend to five hundred rupees:

Provided that it shall be a defence to show that the name of the accused is entered in the register of another Province and that at the time of the alleged offence under this section an application for registration in the Province had been made.

(2) For the purposes of this section—

(a) it shall be immaterial whether or not any person is deceived by such pretence or use as aforesaid;

(b) the use of the description 'pharmacist' shall be deemed to be reasonably calculated to suggest that the user is a person whose name is for the time being entered in the register of the Province;

(c) the onus of proving that the name of a person is for the time being entered in the register of a Province shall be on him who asserts it.

(3) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by order of the Provincial Government or the Executive Committee.

42. Dispensing by unregistered persons.—(1) On or after such date as the Provincial Government may by notification in the official Gazette appoint in this behalf, no person other than a registered pharmacist shall compound, prepare, mix, or dispense any medicine on the prescription of a medical practitioner except under the direct and personal supervision of a registered pharmacist:

Provided that this sub-section shall not apply to the dispensing by a medical practitioner of medicine for his own patients, or with the general or special sanction of the Provincial Government, for the patients of another medical practitioner.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to six months, or with fine or with both.

(3) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by an order of the Provincial Government.

43. Failure to surrender certificate of registration.—(1) If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of registration, he shall be punishable with fine which may extend to fifty rupees.

(2) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by an order of the Executive Committee.

44. Payment of part of fees to Central Council.—The Provincial Council shall before the end of June in each year pay to the Central Council a sum equivalent to one-sixth (or such other proportion as may from time to time be agreed upon by the Central Council and the Provincial Government) of the total fees realised by the Provincial Council under this Act during the period of twelve months ending on the 31st day of March of that year.

45. Power to make rules.—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry out the purposes of Chapters III, IV and V.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

(a) the management of the property of the Provincial Council, and the maintenance and audit of its accounts;

(b) the manner in which elections under Chapter III shall be conducted;

(c) the summoning and holding of meetings of the Provincial Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to form a quorum;

(d) the powers and duties of the President and Vice-President of the Provincial Council;

(e) the constitution and functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum,

(f) the tenure of office and the powers and duties of the Registrar and other officers and servants of the Provincial Council, including the amount and nature of the security to be given by the Treasurer;

(g) the particulars to be stated, and the proof of qualifications to be given, in applications for registration under Chapter IV;

(h) the conditions for registration under sub-section (1) of section 32;

(i) fees payable under Chapter IV and the charge for supplying copies of the register;

(j) the form of certificates of registration and the manner of endorsement of renewals thereof;

(k) the maintenance of a register of students in pharmacy;

(l) any other matter which is to be or may be prescribed under Chapters III, IV and V.

STATEMENT OF OBJECTS AND REASONS

It is desirable that, as in most other countries, only persons who have attained a minimum standard of professional education should be permitted to practise the profession of pharmacy. It is accordingly proposed to establish a Central Council of Pharmacy, which will prescribe the minimum standards of education and approve courses of study and examinations for pharmacists, and Provincial Pharmacy Councils, which will be responsible for the maintenance of provincial registers of qualified pharmacists. It is further proposed to empower Provincial Governments to prohibit the dispensing of medicine on the prescription of a medical practitioner otherwise than by, or under the direct and personal supervision of, a registered pharmacist.

AMRIT KAUR.

NEW DELHI,

The 6th November, 1947.

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 26th November 1947:—

L. A. BILL No. 58 OF 1947.

A Bill to provide for the exercise of certain extra-provincial jurisdiction of the Central Government.

WHEREAS by treaty, grant, usage, sufferance and other lawful means, the Central Government has, and may hereafter acquire, jurisdiction in and in relation to areas outside the Provinces of India ;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Extra-Provincial Jurisdiction Act 1947.

2. Definitions.—In this Act,—

(a) “extra-provincial jurisdiction” means any jurisdiction which by treaty, grant, usage, sufferance or other lawful means, the Central Government has for the time being in or in relation to any area outside the Provinces ;

(b) “jurisdiction” includes rights, power and authority.

3. Exercise of jurisdiction.—(1) It shall be lawful for the Central Government to exercise extra-provincial jurisdiction in such manner as it thinks fit.

(2) The Central Government may delegate any such jurisdiction as aforesaid to any officer or authority in such manner and to such extent as it thinks fit.

4. Power to make orders.—(1) The Central Government may, by notification in the official Gazette, make such orders as may seem to it expedient for the effective exercise of any extra-provincial jurisdiction of the Central Government.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), any order made under that sub-section may provide—

(a) for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force in any Province or otherwise ;

(b) for determining the persons who are to exercise jurisdiction, either generally or in particular classes of cases, and the powers to be exercised by them ;

(c) for determining the courts, judges, magistrates and authorities by whom, and for regulating the manner in which, any jurisdiction auxiliary or incidental to or consequential on the jurisdiction exercised under this Act is to be exercised in the Provinces ; and

(d) for regulating the amount, collection and application of fees.

5. Validity of acts done in pursuance of jurisdiction.—Every act and thing done whether before or after the commencement of this Act, in pursuance of any extra-provincial jurisdiction of the Central Government in an area outside the Provinces shall be as valid as if it had been done according to the local law then in force in that area.

6. Evidence as to existence or extent of jurisdiction.—(1) If in any proceeding civil or criminal, in a Court established in the Provinces or by the authority of the Central Government outside the Provinces, any question arises as to the existence or extent of any extra-provincial jurisdiction of the Central Government, the Secretary to the Government of India in the appropriate department shall, on the application of the Court, send to the Court the decision of the Central Government on the question, and that decision shall for the purposes of the proceeding be final

(2) The Court shall send to the said Secretary, in a document under the seal of the Court or signed by a judge of the Court, questions framed so as properly to raise the question, and sufficient answers to those questions shall be returned to the Court by the Secretary and those answers shall on production thereof be conclusive evidence of the matters therein contained.

7. Repeal and saving.—(1) The Extra-Provincial Jurisdiction Ordinance, 1947 (XV of 1947) is hereby repealed.

(2) Any order made, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 27th day of August, 1947.

STATEMENT OF OBJECTS AND REASONS.

The Central Government have acquired by agreement, treaty, usage, etc., certain powers and jurisdiction in the non-judicial and semi-judicial States and Talukas of Western India and Gujrat, Manipur, etc. The Central Government have in consequence assumed certain functions in relation to the administration of these areas. In order to provide legal machinery for the exercise of these functions, the Extra-Provincial Jurisdiction Ordinance was promulgated. It is now proposed to replace the Ordinance by an Act of the Dominion Legislature. The present Bill empowers the Central Government to exercise in the areas outside the Provinces jurisdiction and powers acquired, or that may be acquired, by the Central Government, by treaties, agreements, etc., and validates action already taken by the Central Government and its Officers.

V. J. PATEL.

NEW DELHI;

the 17th November 1947.

L. A. BILL NO. 54 OF 1947.

A Bill to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India.

WHEREAS it is expedient to provide for the rationalisation of the production and supply of electricity, for taking measures conducive to the electrical development of the Provinces of India and for all matters incidental thereto;

It is hereby enacted as follows:—

CHAPTER I

Introductory

1. Short title, extent and commencement.—(1) This Act may be called the Electricity (Supply) Act, 1948.

(2) It extends to all the Provinces of India.

(3) This section shall come into force at once, but the remainder of this Act shall come into force in a Province only if the Government, by notification in the official Gazette so directs and from what may be specified in the said notification.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(1) "Board" means a Provincial Electricity Board constituted under section 8;

(2) "bulk-licensee" means a licensee who is authorised by his licence to supply electricity to other licensees for distribution by them;

(3) "Central Technical Power Board" means the Central Technical Power Board constituted under the Resolution of the Government of India in the Department of Labour, No. EB-8, dated the 8th day of November 1944;

(4) "controlled station" means a generation station designated in a scheme sanctioned under Chapter IV as a controlled station;

(5) "generating station" or "station" means any station for generating electricity, including any building and plant used for that purpose and the site thereof, a site intended to be used for a generating station, and any buildings used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station for transforming, converting or distributing electricity;

(6) "licensee" means a person licensed under Part II of the Indian Electricity Act, 1910 (IX of 1910) to supply energy or a person who has obtained sanction under section 28 of that Act to engage in the business of supplying energy, but the provisions of section 25 of this Act notwithstanding, does not include the Board;

(7) "main transmission lines" means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or to a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works and the operating staff thereof;

(8) "maximum demand" means, in respect of any period, twice the largest number of kilowatt-hours supplied and taken during any consecutive thirty minutes (calculated from either the commencement or the middle of an hour) in the period;

(9) "prescribed" means prescribed by rules made under section 76;

(10) "regulations" means regulations made by the Board under section 77;

(11) "Reserve Bank" means the Reserve Bank of India;

(12) "transmission lines" means all works mentioned in clause (7) used wholly or partially for the purposes of distribution;

(13) "year" means, in relation to the Board, the year commencing on the 1st day of April;

(14) "year of account" means, in relation to a licensee, his financial year;

(15) The words "and" and "or" have the meanings respectively assigned to them in the Indian Electricity Act, 1910.

CHAPTER II

Provincial Electricity Boards

3. Constitution and composition of Provincial Electricity Boards.—(1) The Provincial Government shall as soon as may be after the issue of the notification under sub-section (3) of section 1, constitute by notification in the official Gazette a Provincial Electricity Board under such name as shall be specified in the notification.

(2) The Board shall consist of not less than four, and not more than seven, members appointed by the Provincial Government, of whom at least three shall be full-time members.

(3) Of the full-time members, one (who shall be the Chairman of the Board) shall be a qualified engineer experienced in administrative and business methods, one shall be an experienced electrical engineer and one shall be experienced in accounting and financial matters.

(4) The part-time members shall be appointed after consultation with such representatives or bodies representative of the following interests as the Provincial Government thinks fit, that is to say, local self-government, electricity, commerce, industry, transport, agriculture and labour.

(5) A person shall be disqualified for being appointed or being a member of the Board if he is, or within the twelve months last preceding has been, a member of the Central or of any Provincial Legislature.

(6) No act done by the Board shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

4. Interprovincial agreement to extend Board's jurisdiction to another Province.—(1) Subject to the following provisions of this section, the Government of any Province may, after it has issued a notification under sub-section (3) of section 1, in lieu of constituting a Board under section 3 enter into an agreement with the Government of a contiguous Province to provide that the Board constituted for the latter Province shall exercise the functions of a Board under this Act in the former Province

(2) Subject to such modifications (being of a character not affecting the general operation of the agreement) of the terms of the agreement as may from time to time be agreed upon by the Provincial Governments concerned, an agreement entered into under this section shall have permanent effect.

(3) An agreement under this section may—

(a) make such financial arrangements between the participating Provincial Governments as may be necessary for the purposes of the agreement;

(b) provide for consultation between the participating Provincial Governments either generally or with reference to particular matters arising under this Act;

(c) generally make such incidental, supplementary or ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

5. Effect of interprovincial agreement.—Where an agreement is entered into under section 4, the participating Provincial Governments shall, by notification in the official Gazettes, declare a date on which the agreement shall come into force, and on and after that date—

(a) the Board constituted for the one Province shall have all the powers and duties of a Board under this Act in respect of both Provinces as if they constituted a single Province;

(b) references in this Act to the Province shall, unless the subject or context otherwise requires, be construed as references to both Provinces, and in particular, the references in section 60 to the Provincial Legislature shall be construed as references to the Legislatures of both Provinces;

(c) the provisions of section 59 in relation to the assumption by the Board of the rights and liabilities of the Provincial Government arising before the first constitution of the Board shall apply to the assumption by the Board of the

rights and liabilities of the Government of the Province to which the exercise of its functions under this Act is extended under the agreement, as if in that section for the words "before the first constitution of the Board" there were substituted the words and figure "before the date on which the agreement under section 4 came into force".

6. Term of office of members of the Board.—(1) Subject to the provisions of this Act, the Chairman of the Board shall hold office for seven years, other full-time members for five years and part-time members for three years:

Provided that on the first constitution of the Board such one of the full-time members, other than the Chairman, as the Provincial Government shall select in this behalf shall hold office for three years only.

(2) Members shall be eligible for reappointment.

7. Full-time members to hold no interest in certain concerns.—A full-time member of the Board shall, within three months after his appointment, sell any interest which he may have for his own benefit, whether in his own name or otherwise, in any securities of any company carrying on the business of supplying electricity or the manufacture or sale of machinery, plant, equipment, apparatus or fittings for the generation, transmission, distribution or use of electricity; and it shall not be lawful for a full-time member of the Board, so long as he holds office, to purchase for his own benefit any interest in the securities of any such company and if he under any will or succession becomes entitled for his own benefit to any such interest, he shall sell such interest within three months after becoming so entitled thereto; and he shall also, within three months after his appointment, sever any connection he may have with any electric supply concern and cease to have any interest, direct or indirect, in any such concern.

8. Interest in contracts to be disclosed.—(1) A member of the Board shall, if he is interested directly or indirectly in any contract or arrangement which the Board has entered into or proposes to enter into, disclose to the Board the fact and nature of such interest, and he shall not be entitled to vote on any decision of the Board relating to such contract or agreement.

(2) A disclosure referred to in sub-section (1) shall forthwith be recorded in the minutes of the Board

9. Removal or suspension of members.—The Provincial Government may suspend from office for such period as it thinks fit or remove from office any member of the Board who—

- (a) is found to be a lunatic or becomes of unsound mind; or
- (b) is or becomes an undischarged insolvent; or
- (c) fails to comply with the provisions applicable to him of section 7 or section 8; or
- (d) becomes a member of the Central or any Provincial Legislature; or
- (e) in the opinion of the Provincial Government, has so failed to carry out his duties as to render his suspension or removal, as the case may be, necessary, or
- (f) absents himself without leave of the Board from three consecutive ordinary meetings of the Board.

10. Temporary absence of members.—If the Chairman or any other member of the Board is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Provincial Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

11. Incorporation of Board.—The Board shall be a body corporate by the name notified under sub-section (1) of section 8, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and shall by the said name sue and be sued.

12. Authentication of orders and other instruments of the Board.—All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other full-time member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of such member or officer of the Board as may in like manner be authorised in this behalf.

13. Meetings of the Board.—(1) The Board shall hold ordinary meetings at such intervals as may be provided in the regulations; and a meeting may be convened by the Chairman at any other time for the transaction of urgent business.

(2) The number of members necessary to constitute a quorum at a meeting shall be such as may be provided in the regulations.

14. Appointment of staff.—The Board may appoint a Secretary and such other officers and servants as may be required to enable the Board to carry out its functions under this Act:

Provided that in making any such appointments the Board shall have due regard to the principles set out in any regulations under sub-section (2) of section 255 of the Government of India Act, 1935 (26 Geo. 5, c. 2), for the time being in force in the Province.

15. Executive Committee.—(1) The full-time members of the Board shall constitute the Executive Committee of the Board.

(2) It shall be the duty of the Executive Committee to examine all business coming before the Board and to make recommendations thereon to the Board.

(3) In addition to the duty imposed by sub-section (2) the Executive Committee may exercise on behalf of the Board such functions of the Board under this Act as may be provided in the regulations.

16. Regional Advisory Committee.—(1) The Provincial Government may from time to time constitute for such areas as it may determine Regional Advisory Committees, consisting of such number of persons as it may think fit in each case and on such terms and conditions as may be prescribed.

(2) The Board may if it thinks fit consult the Regional Advisory Committees concerned on any business coming before it, and shall so do in respect of such business as the Provincial Government may by general or special order in this behalf specify or when required by the regulations so to do.

(3) The Chairman of the Board or such other member of the Board as he may nominate in this behalf shall be *ex officio* Chairman of a Regional Advisory Committee.

(4) Regional Advisory Committees shall meet at such intervals as may be prescribed, and for the transaction of urgent business on such other occasions as the Chairman of the Board may require.

(5) The number of members necessary to constitute a quorum at a meeting of a Regional Advisory Committee shall be such as the Provincial Government when constituting the Committee may specify.

CHAPTER III

Powers and duties of Provincial Electricity Boards

17. General duties of the Board.—Subject to the provisions of this Act, the Board shall be charged with the general duty of promoting the co-ordinated

development of the supply of electricity within the Province in the most efficient and economical manner, with particular reference to such development in areas not for the time being served by any licensee, and without prejudice to the generality of the foregoing provisions it shall be the duty of the Board—

(a) to prepare and carry out when sanctioned schemes under Chapter IV;

(b) to supply electricity to owners of controlled stations and to licensees whose stations are closed down under this Act;

(c) to supply electricity as soon as practicable to any other licensees or persons requiring such supply and whom the Board may be competent under this Act so to supply.

18. Powers of the Board to supply electricity.—(1) The Board may, subject to the provisions of this Act, supply electricity to any licensee or person requiring such supply in any area in which a scheme sanctioned under Chapter IV is in force:

Provided that the Board shall not—

(a) supply electricity for any purpose directly to any licensee for use in any part of the area of supply of a bulk-licensee without the consent of the bulk-licensee, unless the licensee to be supplied has an absolute veto on any right of the bulk-licensee to supply electricity for such purpose in the said part of such area, or unless the bulk-licensee is unable or unwilling to supply electricity for such purpose in the said part of such area on reasonable terms and conditions and within a reasonable time; or

(b) supply electricity for any purpose to any person, not being a licensee, for use in any part of the area of supply of a licensee without the consent of the licensee, unless the licensee is unable or unwilling to supply electricity for such purpose in the said part of such area on reasonable terms and conditions and within a reasonable time.

(2) After the Board has declared its intention to supply electricity for any purpose in any area, for which purpose and in which area it is under this section competent to supply electricity, no licensee shall, the provisions of his licence notwithstanding, at any time be entitled without the consent of the Board to supply electricity for that purpose in that area.

(3) For the purposes of sub-section (1) "absolute veto" means an unqualified right vested in a licensee by virtue of any law, licence or other instrument whereby a bulk-licensee is prevented from supplying electricity in any specified area without the consent of the licensee in whom the veto vests.

(4) If any question arises under sub-section (1) as to the reasonableness of the terms or conditions or time therein mentioned, it shall be determined as provided in section 74.

19. Power to Board to engage in certain undertakings.—(1) The Board may, in accordance with any regulations made in this behalf, manufacture, purchase, sell or let on hire on the execution of a hire-purchase agreement or otherwise, any electric fittings, wires or apparatus for lighting, heating or motive power or for any other purpose for which electricity can or may be used, or any industrial or agricultural machinery operated by electricity, and may install, connect, repair, maintain or remove such fittings, wires, apparatus or machinery, and in respect thereof demand and take such remuneration or rents and charges and make such terms and conditions as it deems fit.

(2) All charges made by the Board for the sale or hire of fittings, wires, apparatus or machinery as aforesaid shall be so fixed as to be not unremunerative to the Board.

(3) The Board may maintain shops and showrooms for the display, sale or hire of fittings, wires, apparatus and machinery as aforesaid, conduct displays, exhibitions and demonstrations thereof, and generally do all things, including advertising, incidental to the sale and hire of such fittings, wires, apparatus and machinery and to the promotion and encouragement of the use of electricity.

(4) The Board shall show separately in its accounts moneys received and expended by it in connection with any undertaking in which it engages under this section.

20. Powers of Board in relation to water-power.—The Board may, with the previous approval of the Provincial Government, take such measures as in the opinion of the Board are calculated to advance the development of water-power in the Province, and may organise and carry out power and hydrometric survey work and cause to be made such maps, plans, sections and estimates as are necessary for any of the said purposes.

21. Power to Board to conduct investigations.—Subject so far as the provisions of this section relate to water-power to the previous approval of the Provincial Government, the Board may at its own expense conduct such investigations, experiments and trials as it thinks fit for the improvement of the methods of transmission, distribution and supply of electricity or of the utilisation of fuel, water-power or other means of generating electricity, and may establish and maintain laboratories for the testing and standardisation of electrical instruments and equipment.

22. Loans by Board to licensees.—(1) Subject to any regulations made in this behalf, the Board may make advances to any licensee for the purposes of his undertaking on such terms as the Board thinks proper.

(2) Any licensee may, notwithstanding anything contained in any law or in his memorandum of association or in his licence or in any other instrument regulating his constitution and powers, borrow from the Board under this section or accept from the Board any advance which the Board may under any other provision of this Act make to him.

23. Power to Board to contribute to certain associations.—The Board may, subject to any regulations made in this behalf, pay reasonable subscriptions, whether annual or otherwise, to any association of persons engaged in the generation, distribution or supply of electricity founded for the promotion of their common interests and contribute such sums as it thinks fit to the funds of any recognised society not conducted for profit for the promotion and encouragement of the development and use of electricity or for the improvement of knowledge and education in respect of electricity.

24. Consulting engineers.—The Board may from time to time appoint qualified persons to be consulting engineers to the Board and pay them such remuneration as it thinks proper.

25. Board to have powers and obligations of licensee under Act IX of 1910.—Subject to the provisions of this Act, the Board shall, in respect of the whole Province, have all the powers and obligations of a licensee under the Indian Electricity Act, 1910 (IX of 1910), and this Act shall be deemed to be the licence of the Board for the purposes of that Act:

Provided that nothing in sections 3 to 11, sub-sections (2) and (3) of section 21 and sections 22, 23 and 27 of that Act or in clauses I to XII of the Schedule to that Act relating to the duties and obligations of a licensee shall apply to the Board.

26. Other functions of the Board.—The Board shall have such further powers and duties as are provided in this Act.

CHAPTER IV

The Board's Works and Trading Procedure

27. Preparation of schemes.—With a view to rationalising the production and supply of electricity in any area the Board may from time to time prepare a scheme, not inconsistent with this Act, for that area, in which provision may be made for all or any of the following matters, namely:—

- (a) the establishment of the Board's own generating stations;
- (b) the designation of generating stations, whether existing stations or new stations, as controlled stations at which electricity shall be generated for the purposes of the Board;
- (c) the interconnection, by means of main transmission lines to be constructed or acquired by the Board, of any generating stations with any others and with any systems of licensees;
- (d) where a scheme relates to a specified area, the interconnection of the system of the Board in that area with the system of the Board in any other area with respect to which a scheme is in being or may subsequently be made;
- (e) the construction or acquisition of such other main transmission lines as the scheme may require;
- (f) the use by the Board of any transmission lines or main transmission lines of any licensee;
- (g) such supplemental, incidental and consequential provisions as may appear necessary or expedient for any of the purposes aforesaid:

Provided that a scheme shall not, without the consent of the owner,—

- (i) designate as a controlled station any generating station belonging to a person other than a licensee;
- (ii) authorise the use or acquisition of a transmission line or a main transmission line belonging to a person other than a licensee.

28. Publication and sanctioning of schemes.—(1) The Board shall cause every scheme prepared under section 27 to be published in the official Gazette and in such local newspapers as it may consider necessary, and shall give public notice of the date, not being less than two months after the date of the notice, by which licensees and other persons interested may make representations thereon.

(2) The Board, after considering any such representations and after making such inquiries, if any, as it thinks fit, may sanction the scheme either without modification or subject to such modifications as it thinks fit, and either generally or in respect of any part of the area specified in the published scheme, and shall publish the scheme as sanctioned by it; and where the scheme has been sanctioned in respect of part of the said area, it may subsequently be sanctioned in respect of other parts of that area;

Provided that no sanction shall be accorded by the Board to any scheme or part of a scheme estimated to result in a capital expenditure exceeding twenty-five lakhs of rupees without prior consultation with the Central Technical Power Board and until any recommendations which that Board may, in accordance with the provisions of this Act, make upon such consultation have received due consideration by the Board.

(3) In respect of any scheme to which the proviso to sub-section (2) applies, the Board shall, within one month after being requested by the Central Technical Power Board so to do, supply that Board with all such information incidental or supplementary to the scheme as may be specified in the request.

29. Matters to be considered by Central Technical Power Board.—The Central Technical Power Board shall, before making any recommendations in respect of a scheme upon which it has been consulted under the proviso to sub-section (2) of section 28, have particular regard to whether or not in its opinion—

(a) any river-works proposed by the Board will prejudice the prospects for the best ultimate development of the river or its tributaries for power-generation, consistent with the requirements of irrigation, navigation and flood-control, and for this purpose the Central Technical Power Board shall satisfy itself that an adequate study has been made of the optimum location of dams and other river works;

(b) the proposed scheme will prejudice the proper combination of hydro-electric and thermo-electric power necessary to secure the greatest possible economic output of electric power

(c) the proposed main transmission lines will be reasonably suitable for regional requirements;

(d) the scheme provides reasonable allowances for expenditure on capital and revenue account;

(e) the estimates of prospective supplies of electricity and revenue therefrom contained in the scheme are reasonable.

30. Recommendations of Central Technical Power Board.—Where the Central Technical Power Board has been consulted under the proviso to sub-section (2) of section 28 in respect of a scheme, it shall forward its recommendations thereon to the Board, sending a copy thereof to the Provincial Government, within six months from the date of the receipt by it of the scheme.

Provided that if the Board fails to supply in due time any information requested under sub-section (3) of section 28 the period within which the Central Technical Power Board shall forward its recommendations shall be correspondingly increased.

31. Carrying out of schemes.—The Board shall carry out and give effect to a scheme as soon as reasonably practicable after it has been sanctioned and published.

32. Power to alter or extend schemes.—The Board may from time to time alter or extend a scheme by a supplementary scheme made and sanctioned in the manner hereinbefore provided:

Provided that any alterations or extensions of a scheme which are in the opinion of the Board minor in character may be made without preparing a supplementary scheme

33. Controlled stations.—Where a generating station situate within an area for which a scheme is in force has been designated in the scheme as a controlled station, the relations between the Board and the licensee owning the station shall, subject to any arrangements agreed under section 46, be regulated by the provisions of the First Schedule.

34. Supply by the Board to licensees owning generating stations.—The Board may at any time declare to a licensee owning a generating station, other than a controlled station situate within an area for which a scheme is in force that it is ready to make a supply of electricity available to the licensee for the purposes of his undertaking, and thereupon but without prejudice to the provisions of section 46, the provisions of the Second Schedule shall apply in respect of the relations between the Board and the said licensee.

35. Power to Board to close down generating stations.—The Board may at any time declare to a licensee owning a generating station situate within an area for which a scheme is in force that the station shall be permanently closed

down, and thereupon but without prejudice to the provisions of section 46, where the station is a controlled station the provisions of Part III of the First Schedule, or in other cases the provisions of the Third Schedule, shall apply in respect of the relations between the Board and the said licensee with reference to the station to be closed down.

36. Purchase of generating stations or main transmission lines by the Board.—

(1) Where under the First or Third Schedule any generating station is to be purchased by the Board, or where a sanctioned scheme provides for the purchase by the Board of a main transmission line belonging to any licensee.—

(a) the generating station from such date of purchase as may be fixed under the appropriate schedule, or the main transmission line from such date of purchase as the Board shall, by notice in writing given not less than one month before the said date, intimate to the licensee, shall vest in the Board free, save as provided in sub-section (2), from any debt, mortgage, lien or other similar obligation of the licensee or attaching to the station or line, as the case may be, and any such debt, mortgage, lien or obligation shall, save as aforesaid, attach to the purchase-money in substitution of the station or line;

(b) without prejudice to the provisions of section 46, the Board shall pay, or tender payment of, the price to be determined in accordance with the Fourth Schedule as soon as the amount thereof has been determined, together with interest on such amount from the date of purchase to the date of payment or tender of payment as aforesaid at the rate of one *per centum* over the average of the Reserve Bank rates between the said dates;

(c) the receipt of the licensee shall, notwithstanding anything in any other law, be a full and sufficient discharge to the Board for the payment due in respect of the purchase.

(2) Where a generating station or main transmission line purchased by the Board under this Act is in course of construction, extension or repair at the date of purchase, the rights and liabilities of the former owner thereof under any contract for such construction, extension or repair shall be transferred to the Board.

(3) Notwithstanding anything contained elsewhere in this Act, where any generating station purchased by the Board under this Act contains any plant or apparatus which, while the station was in operation, were used jointly for the purposes of generation and transmission or distribution or wholly for the purposes of transmission or distribution, then unless otherwise agreed between the Board and the licensee, such plant or apparatus shall not be purchased by the Board but shall remain the property of the licensee.

37. Provision of new generating stations.—The Board may itself establish a new generating station in any area in which it is required by any sanctioned scheme to be situated, or may make arrangements with any licensee or other person for the establishment of a new generating station required by a sanctioned scheme.

38. Operation of Board's generating stations.—Where the Board itself establishes a new generating station or acquires a generating station otherwise than for the purpose of closing it down it may operate the station itself or make arrangements with any licensee or other person for its operation.

39. Provision regarding connections with main transmission lines purchased by the Board.—Where the Board has purchased a main transmission line and by reason of the user thereof by the Board the alteration or replacement of switch-gear or other apparatus of any licensees connected with the line becomes necessary, the Board shall defray the reasonable expenses incurred by the licensees in

effecting such alteration or replacement; and any question whether such alteration or replacement is necessary or whether the expenses incurred in connection therewith are reasonable shall in default of agreement be determined as provided under section 74.

40. Use by Board of transmission lines.—(1) Where the Board considers it necessary to use for any of its purposes any transmission lines or main transmission lines of a licensee, the Board shall have power to use such lines to the extent to which the capacity thereof is surplus to the requirements of the licensee for the transmission of electricity, on payment of charges calculated in accordance with the provisions of the Fifth Schedule.

(2) The Board may, by agreement with any licensee or other person, use any transmission line or main transmission line of that licensee or person for such time and upon such terms as may be agreed.

41. Powers to Board for placing wires, poles, etc.—Notwithstanding anything contained in sections 12 to 16 and 18 and 19 of the Indian Electricity Act, 1910 (IX of 1910), but without prejudice to the requirements of section 17 of that Act, where provision in such behalf is made in a sanctioned scheme, the Board shall have, for the placing of any wires, poles, wall-brackets, stays, apparatus and appliances for the transmission and distribution of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper co-ordination of the works of the Board, all the powers which the telegraph authority possesses under Part III of the Indian Telegraph Act, 1885 (XIII of 1885) with regard to a telegraph established or maintained by the Government or to be so established or maintained:

Provided that where a sanctioned scheme does not make such provision as aforesaid, all the provisions of sections 12 to 19 of the first-mentioned Act shall apply to the works of the Board.

42. Power to Board to enter into arrangements for purchase or sale of electricity under certain conditions.—(1) The Board may enter into arrangements with any person producing electricity within the Province for the purchase by the Board on such terms as may be agreed of any surplus electricity of which that person may be able to dispose.

(2) Where a sanctioned scheme so provides, the Board may, on such terms as may be agreed, enter into arrangements with any Government or person for the purchase or sale of electricity to be generated or used outside the Province.

Provided that the Board may not enter into such arrangements with any such Government or person without the consent of the Provincial Government, or into arrangements with any such person without the consent of the Government of the Province within which the electricity is to be generated or used.

43. Restriction of establishment of new generating stations or major additions or replacement of plant in generating stations.—(1) Notwithstanding anything contained in any other law for the time being in force or in any licence but subject to the provisions of this Act, it shall not be lawful for a licensee, or any other person not being a Federal Railway administration except with the previous consent in writing of the Board, to establish or acquire a new generating station or to extend or replace any major unit of plant or works pertaining to the generation of electricity in a generating station:

Provided that such consent shall not, except in relation to a controlled station, be withheld unless within three months from the date of receipt of an application—

(a) for consent to the establishment or acquisition of a new generating station, the Board—

(i) gives to the applicant being a licensee an undertaking that it is competent to, and will, within eighteen months from the said date afford to him a supply of electricity equivalent to that required by him pursuant to his application, or

(ii) shows to the applicant good and sufficient reasons for a belief that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source,

(b) for consent to the extension or replacement of any major unit of plant or works as aforesaid, the Board—

(i) gives to the applicant being a licensee an undertaking that within eighteen months from the said date either the station to which the application pertains will become a controlled station in terms of section 33, or the Board will make a declaration to the applicant in terms of section 34 offering him a supply of electricity equivalent to that required by him pursuant to his application, or the Board will make a declaration to him in terms of section 35, or

(ii) shows to the applicant good and sufficient reasons for a belief that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source or by other appropriate means.

(2) There shall be stated in every application under this section such particulars as the Board may reasonably require of the station, plant or works, as the case may be, in respect of which it is made, and where consent is given thereto, in acting in pursuance of such consent, the applicant shall not, without the further consent of the Board, make any material variation in the particulars so stated.

44. Power to Board to enter upon and shut down generating stations in certain circumstances.—(1) If any licensee fails to close down his generating stations pursuant to a declaration of the Board under section 35, or if any person establishes or acquires a new generating station or extends or replaces any plant or works in any generating station in contravention of section 43, the Board may authorise any of its officers to enter upon the premises of such station and shut down the station or the plant or works, as the case may be, in respect of which the failure or contravention has occurred.

(2) Any expenses incurred by the Board under this section shall be recoverable by it from the licensee or person concerned as an arrear of land revenue, and for such purpose the Board shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (I of 1890).

45. The Grid Tariff.—(1) A tariff to be known as the Grid Tariff shall, in accordance with any regulations made in this behalf, be fixed from time to time by the Board in respect of each area for which a scheme is in force, and tariffs fixed under this section may, if the Board thinks fit, differ for different areas.

(2) Without prejudice to the provisions of section 46, the Grid Tariff shall apply to sales of electricity by the Board to licensees where so required under any of the First, Second and Third Schedules, and shall, subject as hereinafter provided, also be applicable to sales of electricity by the Board to licensees in other cases:

Provided that if in any such other case it appears to the Board that the transmission expenses involved in affording the supply would be unreasonable having regard to the magnitude of the supply required, the Board may make such additional charges as it considers appropriate.

(3) The Grid Tariff shall be so framed as to include as part of the charge, and show separately a fixed kilowatt charges component and a running charges component.

Provided that if in respect of any area the electricity to be sold by the Board is wholly or substantially derived from hydro-electric sources, the running charges component may be omitted.

(4) The fixed kilowatt charges component in the Grid Tariff may be framed so as to vary with the magnitude of maximum demand.

(5) Where only a portion of a licensee's maximum demand for the purposes of his undertaking is chargeable at the Grid Tariff, the price payable for that portion shall not be greater than the smallest price which would have been payable for any equivalent portion had the whole of the said maximum demand of the licensee been chargeable at the Grid Tariff.

(6) The Grid Tariff may contain provisions for—

(a) adjustment of price having regard to the power factor of supply taken or the cost of fuel or both;

(b) a minimum charge related to a past or prospective demand of a licensee on the Board.

(7) The Grid Tariff may contain such other terms and conditions, not inconsistent with this Act and the regulations, as the Board thinks fit.

46. Power to Board to make alternative arrangements with licensees.—

Notwithstanding anything contained in sections 33 to 36 and sub-section (2) of section 45 but subject to any regulations made in this behalf, the Board may make such arrangements as may be mutually agreed with any licensee whose area of supply is situate within an area for which a scheme is in force, in regard to the purchase or sale of electricity and the price thereof, or the purchase, operation or control of any generating station or main transmission line:

Provided that in making any such arrangement the Board shall not show undue preference to any licensee.

47. Power to licensee to carry out arrangements under this Act.—Where under any provision of this Act the Board is authorised or required to enter into arrangements with any licensee for any purpose, then notwithstanding anything contained in any law or in any license, memorandum of association or other instrument regulating the constitution or powers of the licensee, it shall be lawful for the licensee to enter into and carry out any such arrangements.

48. Provision for the sale of electricity by the Board to persons other than licensees.—Subject to the provisions of this Act and of any regulations made in this behalf, the Board may supply electricity to any person not being a licensee upon such terms and conditions as the Board may from time to time fix having regard to the nature and geographical position of the supply and the purposes for which it is required:

Provided that in fixing any such terms and conditions the Board shall not show undue preference to any person.

49. Board not to supply electricity in certain circumstances.—Nothing contained in sections 33, 34 and 35 shall apply in any case where under section 18, it is not permissible for the Board to supply electricity directly to a licensee owning a generating station; and nothing in sections 45, 46 and 48 shall empower the Board to supply electricity directly to any licensee or person to whom it is not otherwise entitled so to supply electricity.

50. Provisional payments.—Where the price to be paid for electricity by or to the Board under this Act cannot be finally ascertained until after the end of a year of account, the amount to be paid shall be ascertained as soon as practicable thereafter, but the party from whom the payment is due shall make to the other monthly payments on account of the net amounts due in accordance with estimates made for the purpose, subject to adjustment as soon after the end of the year of account as the actual liability can be ascertained.

51. Lower limit of power factor in supply by Board.—Unless otherwise agreed between the Board and the licensee, no supply of electricity taken by a licensee from the Board under this Act shall be taken at an average power factor below 0.85 during the period of maximum demand of the licensee in any month, and in the event of the average power factor as aforesaid being lower than 0.85 the licensee shall within a reasonable time take such measures, the cost of which shall not be borne by the Board, as may be necessary to raise it to a value not lower than 0.85.

52. Provision of accommodation and right of way.—(1) Where the Board for the purposes of any arrangements which it has made with any licensee under this Act requires accommodation on, in, under or over the premises of the licensee for any works or apparatus to be provided by the Board, the licensee shall, if suitable and sufficient accommodation exists and unless otherwise agreed, grant such accommodation free of cost to the Board, or if such accommodation does not exist, it shall be provided upon such terms and conditions as may be agreed between the Board and the licensee.

(2) The Board and any licensee shall at all times have a right of access to their own property on, in, over and under the property of the other.

53. Power to Board to connect meters, etc., to apparatus of licensees.—The Board shall have power to connect with the apparatus of any licensee any such correct meters, switch-gear and other equipment as may be necessary to enable it to carry out the provisions of this Act, and such meters, switch-gear and other equipment shall, unless otherwise agreed, be provided and maintained by the Board at its own cost.

54. Licensees to comply with Board's directions.—Every licensee owning a generating station shall comply with such reasonable directions as the Board may from time to time give him for the purpose of achieving the maximum of economy and efficiency in the operation of the station.

55. Leases of generating stations.—(1) No licensee shall, except with the previous approval in writing of the Board and subject to any conditions which the Board may think fit to impose, enter into any arrangement for his benefit whereby any generating station is to be let or held on lease by him, and any such arrangement entered into in contravention of this sub-section shall be void and of no effect.

(2) Where any arrangement as aforesaid is subsisting on the date of the notification under sub-section (3) of section 1, the licensee shall, within three months from the said date, submit the terms of the arrangement to the Board.

56. Licensees' charges to consumers.—(1) After the issue of the notification under sub-section (3) of section 1, the provisions of the Sixth Schedule and the Table appended to the Seventh Schedule shall be deemed to be incorporated in the licence of every licensee, not being a local authority, from the date of the commencement of the licensee's next succeeding year of account, and from such date the licensee shall comply therewith accordingly and any provisions of such licence or of the Indian Electricity Act, 1910 (IX of 1910) or any other law, agreement or instrument applicable to the licensee shall, in relation to the licensee, be void and of no effect in so far as they are inconsistent with the provisions of this section and the said Schedule and Table.

(2) Where the provisions of the Sixth Schedule and the Table appended to the Seventh Schedule are under sub-section (1) deemed to be incorporated in the licence of any licensee, the following provisions shall have effect in relation to the said licensee, namely:—

(a) The Board may at any time of its own accord, and shall when requested so to do by the licensee, constitute a rating committee to examine the licensee's charges for the supply of electricity and to recommend thereon to the Provincial Government:

Provided that no rating committee shall be constituted in respect of a licensee within three years from the date on which such a committee has reported in respect of that licensee, unless the Provincial Government declares that in its opinion circumstances have arisen rendering the orders passed on the recommendations of the previous rating committee unfair to the licensee or any of his consumers.

in accounting and financial matters, together with one representative co-opted by them from a licensees' association of which the licensee concerned is or is eligible to be a member, or if there is no such association, from such Chamber of Commerce or like body as the Board may direct.

(c) The rating committee shall, after giving the licensee a reasonable opportunity of being heard, report to the Provincial Government making recommendations (and giving reasons therefor) regarding the charges for electricity which the licensee may make to any class or classes of consumers:

Provided that the committee shall not recommend any alteration in a licensee's charges for electricity which would in its reasonable estimation result in preventing the licensee from earning clear profits sufficient when taken with the sums available in Tariffs and Dividends Control Reserve A to afford him a reasonable return during his next three succeeding years of account.

Explanation.—For the purposes of this clause, the expressions "clear profits", "Tariffs and Dividends Control Reserve A" and "reasonable return" have the meanings respectively assigned to them in the Sixth Schedule.

(d) Within one month after the receipt of the report under clause (c) the Provincial Government shall cause the report to be published in the official Gazette, and may at the same time make an order in accordance therewith fixing the licensee's charges for the supply of electricity with effect from such date, not earlier than two months or later than three months after the date of publication of the report, as may be specified in the order; and the licensee shall forthwith give effect to such order:

Provided that nothing in this clause shall be deemed to prevent a licensee from reducing at any time any charges so fixed.

57. Power to Board to direct amortisation and tariffs policies of licensees being local authorities.—The Board shall have power to direct the amortisation and tariffs policies of any licensee, being a local authority, with respect to his licensed undertaking in such manner as the Board, after giving the local authority a reasonable opportunity of being heard, considers expedient for the purposes of the Act; and the licensee, being a local authority, the provisions of any other law or of any rules made or directions given thereunder notwithstanding, shall give effect to any such directions of the Board.

CHAPTER V

The Board's Finance, Accounts and Audit

58. General principles for Board's finance.—It shall be a general principle of the Board that as far as practicable and after taking credit for any subventions from the Provincial Government under section 62, the operations of the Board under this Act shall not be carried out at a loss, and that its charges shall be adjusted accordingly from time to time:

Provided that where necessary any amounts due for meeting the operating, maintenance and management expenses of the Board or for the purposes of clauses (i) and (ii) of section 66 may, to such extent as may be sanctioned by the Provincial Government, be paid out of capital.

59. Board to assume obligations of Provincial Government in respect of matters to which this Act applies.—(1) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Provincial Government for any of the purposes of this Act before the first constitution of the Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board; and all suits or other legal proceedings instituted or which might but for the issue of the notification under sub-section (3) of section 1 have been instituted by or against the Provincial Government may be continued or instituted by or against the Board.

(2) All expenditure which the Provincial Government may, not later than two months after the first constitution of the Board, declare to have been incurred before the issue of the notification under sub-section (3) of section 1 or

capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board under section 63 on the date of the said declaration, and all the assets acquired by such expenditure shall thereupon vest in the Board.

60. Annual financial statement.—(1) In February of each year the Board shall submit to the Provincial Government a statement in the prescribed form of the estimated capital and revenue receipts and expenditure for the ensuing year.

(2) The said statement shall include a statement of the salaries of members officers and servants of the Board and of such other particulars as may be prescribed.

(3) The Provincial Government shall as soon as may be after the receipt of the said statement cause it to be laid on the table of the Chamber, or as the case may be, Chambers of the Provincial Legislature; and the said statement shall be open to discussion therein, but shall not be subject to vote.

(4) The Board shall take into consideration any comments made on the said statement in the Provincial Legislature, but shall not be required to defer any expenditure which is in its opinion urgent pending the receipt and consideration of such comments.

(5) The Board may at any time during the year in respect of which a statement under sub-section (1) has been submitted submit to the Provincial Government a supplementary statement, and all the provisions of this section shall apply to such statement as they apply to the statement under the said sub-section.

61. Restriction on unbudgeted expenditure.—(1) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding ten thousand rupees on account of recurring expenditure or exceeding fifty thousand rupees on account of non-recurring expenditure shall be expended by the Board unless such sum has been included in a statement submitted under sub-section (1) or sub-section (5) of section 60.

(2) Where any such sum is expended under circumstances of extreme urgency, a report thereon indicating the source from which it is proposed to meet the expenditure shall be made as soon as practicable to the Provincial Government.

62. Subventions to the Board.—The Provincial Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the Provincial Government may determine.

63. Loans to the Board.—The Provincial Government may from time to time advance loans to the Board on such terms and condition, not inconsistent with the provisions of this Act, as the Provincial Government may determine.

64. Power of Board to borrow.—(1) The Board may from time to time with the previous sanction of the Provincial Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(2) Rules made by the Provincial Government for the purposes of this section may empower the Board to borrow by the issue of bonds or stock or otherwise and to make arrangements with bankers, and may apply to the Board with such modifications as may be necessary to be consistent with this Act the provisions of the Local Authorities Loans Act, 1914 (IX of 1914) and the rules made thereunder as if the Board were a local authority:

Provided that no such rules and no term or condition imposed under this section or under section 63 shall authorise or require the Board to amortise in any way any loan taken by it, and no law for the time being in force shall be deemed to authorise or require the Board so to do.

(3) The maximum amount which the Board may at any time have on loan under sub-section (1) shall be ten crores of rupees, unless the Provincial Government with the approval of the Provincial Legislative Assembly fixes a higher maximum amount.

(4) Stock issued by the Board under this section shall be issued, transferred, dealt with and redeemed in such manner as may be prescribed.

65. Guarantee of loans.—The Provincial Government may guarantee in such manner as it thinks fit the payment of the principal or interest of any loan proposed to be raised by the Board or of either the principal or the interest:

Provided that the Provincial Government shall, so long as any such guarantees are in force, lay before the Chamber or, as the case may be, Chambers of the Provincial Legislature in every year during the budget session a statement of the guarantees, if any, given during the current financial year of the Province, and an up-to-date account of the total sums, if any, which have been paid out of Provincial revenues by reasons of any such guarantee or paid into Provincial revenues towards repayment of any money so paid out.

66. Priority of liabilities of the Board.—The revenues of the Board shall, after meeting its operating, maintenance and management expenses, be distributed as far as they are available in the following order, namely:—

- (i) Interest on bonds not guaranteed under section 65.
- (ii) Interest on stock not so guaranteed.
- (iii) Credits to depreciation reserve under section 67.
- (iv) Interest on bonds guaranteed under section 65.
- (v) Interest on stock so guaranteed.
- (vi) Repayment of principal and interest on sums paid by the Provincial Government under guarantees under section 65.
- (vii) The write-down of amounts paid from capital under the proviso to section 58.
- (viii) Contribution to general reserve of an amount not exceeding one per centum per annum of the cost of fixed assets employed by the Board, so however that the total standing to the credit of such reserve shall not exceed eight per centum of the cost of such fixed assets.
- (ix) Interest on loans advanced or deemed to be advanced to the Board under section 68, including arrears of such interest.
- (x) Of the balance remaining, one-half in the reduction of tariffs or for such other purposes beneficial to electrical development in the Province, as the Board may think fit, and the remaining one-half as far as available in the following order, namely:—

- (a) repayment of interest-free loans;
- (b) to Provincial revenues.

67. Depreciation reserve.—The Board shall create a depreciation reserve and, as far as compliance with the provision of section 68 makes it possible, at the end of every year credit to such reserve from its revenue

- (i) sums ascertained in accordance with the Seventh Schedule
- (ii) interest at the rate of $4\frac{1}{2}$ per centum per annum on all of the depreciation reserve on the first day of the said year:

Provided that if in any year it is not practicable fully to comply with the provisions of this section, the amount by which the sums actually credited are short of the amount required under this section in respect of that year shall be carried forward and, together with compound interest thereon at the aforesaid rate, shall be credited to the said reserve as soon as it is found possible in accordance with section 68 as to do.

68. Accounts and audit.—(1) The Board shall cause to be maintained such proper books of account and other books in relation to its accounts as the regulations may require, and shall prepare in accordance with the regulations an annual statement of accounts.

(2) The Board shall cause its accounts to be audited annually by a person qualified under the provisions of section 144 of the Indian Companies Act, 1918 (VII of 1918), to act as an auditor of companies.

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the Provincial Government, and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(4) The Board shall comply with such orders and instructions, not inconsistent with the provisions of this Act, as the Provincial Government may, upon perusal of the report of the auditor, think fit to issue.

CHAPTER VI

Miscellaneous

69. Effect of other laws.—(1) No provision of the Indian Electricity Act, 1910 (IX of 1910) or of any other law, or of any rules made under any such law or of any instrument having effect by virtue of any such law or rule shall, so far as it is inconsistent with any of the provisions of this Act, have any effect:

Provided that nothing in this Act shall be deemed to prevent the Provincial Government from granting, after consultation with the Board, a licence not inconsistent with the provisions of the Indian Electricity Act, 1910, to any person in respect of such area and on such terms and conditions as the Provincial Government may think fit

(2) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Electricity Act, 1910.

70. Rights and options to purchase under Act IX of 1910 to vest in Board.—Where under the provisions of the Indian Electricity Act, 1910, any right or option to purchase the undertaking of a licensee vests in the Provincial Government or a local authority, such right or option shall be deemed to be transferred to the Board, and shall be exercisable by the Board in accordance with the provisions of the said Act applicable to the exercise of such right or option by the Provincial Government or a local authority, as the case may be.

71. Water-power concessions to be granted only to the Board.—The Provincial Government shall not grant any concession for the development or use of water power for any electrical purpose to any person other than the Board, unless the Board recommends to the Provincial Government that it is not expedient for the Board itself so to develop or use the water-power concerned.

72. Entry.—Any officer or servant of the Board generally or specially appointed by the Board in this behalf may at any reasonable time enter any land or premises and there do such things as may be reasonably necessary for the purposes of lawfully using any transmission lines or main transmission lines, or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of duties by the Board under this Act.

73. Annual reports, statistics and returns.—(1) The Board shall, before such date and in such form as may be prescribed, submit to the Provincial Government an annual report upon such matters as may be prescribed, and the Provincial Government shall cause such report to be published in the official Gazette.

(2) The Board shall furnish to the Provincial Government at such times and in such form and manner as may be prescribed or as the Provincial Government may direct, such statistics and return and such particulars in regard to any proposed or existing scheme as the Provincial Government may from time to time require.

(3) The Board may, at any time, by notice in writing require any licensee or person supplying electricity for public or private purposes or generating electricity for his own use to furnish it with such information and accounts relating to such supply or generation and in such form and manner as the notice may specify.

74. Arbitration.—(1) Where any question arises under this Act between the Board and a licensee or other person, it shall if the Board and the licensee or other person are unable to settle it by agreement, be determined by arbitration. and in particular, where under any provision of this Act any matter is to be agreed between the Board and a licensee or other person and no alternative method of determining it is set out in that provision, the matter shall, if no agreement as aforesaid can be reached, be determined by arbitration.

(2) Where any question or matter is under this Act to be determined by arbitration, it shall be referred to two arbitrators, one appointed by the Board and the other by the licensee or other person concerned.

(3) Subject to the provisions of this section, the provisions of the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this Act.

(4) The arbitrators shall in making their award have regard to the provisions of this Act and any rules and regulations made thereunder relevant to the reference

(5) The arbitrators may, if they think it expedient so to do, call in the aid of one or more qualified assessors and hear the reference wholly or partially with the aid of such assessors.

(6) The provisions of sub-sections (4) and (5) shall apply to the umpire, if he enters on the reference, as they apply to the arbitrators.

75. Penalties and procedure.—(1) If any licensee or other person fails without reasonable excuse to comply with or give effect to any direction, order or requirement made under section 54 or under clause (d) of sub-section (2) of section 56 or under section 57 or under sub-section (3) of section 73, he shall be deemed to have committed an offence under this section and shall be punishable with fine which may extend to five hundred rupees, and in the case of continuing offence with an additional fine which may extend to fifty rupees for every day after the first during which the offence continues.

(2) Where any licensee or person is a firm, company or other body corporate, every partner, director, member, manager, secretary or other officer thereof shall, unless he proves that an offence under this section was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of the offence.

(A) No Court shall take cognisance of an offence under this section except on the complaint of an officer of the Board authorised by the Board in this behalf.

76. Power to make rules.—(1) The Provincial Government may after previous publication, by notification in the official Gazette make such rules to give effect to the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the remuneration and conditions of service of members of the Board;

(b) the terms and conditions of appointment of members of Regional Advisory Committees, the convening of meetings of such Committees, and the conduct of business thereat;

(c) the form in which the annual financial statement and supplementary statements under section 64 shall be prepared by the Board, and the particulars to be included therein;

(d) the conditions subject to which the Board may borrow under section 64;

(e) the manner in which stock issued by the Board shall be issued, transferred, dealt with and redeemed;

(f) the manner in which the accounts of the Board shall be published under section 68;

(g) the form in which and the date by which the annual report of the Board shall be submitted under section 73, and the form and manner of furnishing statistics and returns by the Board under that section.

77. Power to make regulations.—The Board may make regulations not inconsistent with this Act to provide for all or any of the following matters, namely:—

(a) the administration of the funds and other property of the Board, and the maintenance of its accounts;

(b) the summoning and holding of meetings of the Board, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(c) the duties of officers and servants of the Board, and their salaries, allowances and other conditions of service;

(d) allowances of members of the Board;

(e) the functions of the Board which may be exercised on behalf of the Board by the Executive Committee under section 15;

(f) the business of the Board upon which the Regional Advisory Committees concerned shall be consulted;

(g) all matters necessary or expedient for regulating the operations of the Board under section 19;

(h) the making of advances to licensees by the Board under section 22 and the manner of repayment of such advances;

(i) the making of contributions by the Board under section 28;

(j) the procedure to be followed by the Board in inviting, considering and accepting tenders;

(k) principles governing the fixing of Grid Tariffs;

(l) principles governing the making of arrangements with licensees under section 46;

(m) principles governing the supply of electricity by the Board to persons other than licensees under section 48;

(n) any other matters arising out of the Board's functions under this Act for which it is necessary or expedient to make regulations;

Provided that regulations under clause (a) shall be made only with the previous approval of the Provincial Government.

78. Exemption of Board from Central taxation.—Notwithstanding anything contained in any other law for the time being in force, the Board shall be exempt from liability to pay any tax on income, corporation tax or any other like tax levied by the Central Government.

79. Members, officers and servants of the Board to be public servants.—All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860)

80. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act

THE FIRST SCHEDULE

(See sections 33 and 35)

Arrangements in respect of controlled stations

PART 1

Assumption of control

1. (1) The Board shall by notice in writing to the licensee fix a date (hereafter in this Schedule referred to as the date of control), being the first day of a year of account of the licensee, and from such date the licensee shall, except where prevented by causes beyond his control, be under obligation—

(a) subject to such directions as the Board may from time to time give him, to keep the station at all times in good and substantial repair and condition and ready for use, together with adequate staff for operating, maintaining and controlling the station, and not to make any substantial alterations or renewals in, or remove any essential or substantial part of, the station without the consent in writing of the Board;

(b) to operate the station so as to generate such quantity of electricity with such units of plant at such rates of output and at such times, or to cease to generate electricity during such periods, as the Board may direct;

(c) to carry out as soon as may be practicable such reasonable extensions, alterations or renewals of the station or any part thereof as the Board may from time to time direct;

(d) to supply to the Board all the electricity generated at the station.

(2) For complying with any direction under sub-paragraph (1) requiring extensions or alterations of the station or any part thereof, the Board may, if it considers it expedient and practicable so to do, advance on loan upon such terms as it may determine, and the licensee shall accept from the Board upon such terms, the money required to meet the cost of such extensions or alterations:

Provided that the principal of loans so advanced by the Board and the interest thereon shall be charged upon the undertaking and all the revenues of the licensee and no such loan shall be amortised in any way by the licensee:

Provided further that if at the date of purchase of the station under this Act or of the licensee's undertaking under the Indian Electricity Act, 1910 (IX of 1910), the said principal or any part thereof remains unrepaid though due for redemption or is not on that date due for redemption, then any sum payable by the purchaser as a percentage on account of compulsory purchase under this Act or the said Act shall be reduced by an amount which bears the same proportion to that sum as the amount of the said principal or part thereof remaining unrepaid or not being due for redemption as aforesaid bears to the total of the ordinary, preference and debenture capital of the licensee.

Explanation.—In this sub-paragraph, the expressions "ordinary capital", "preference capital" and "debenture capital" have the meanings respectively assigned to them in the Sixth Schedule.

(3) In the event of any active employees of the licensee being temporarily not required for the purposes of operating, maintaining or controlling the generating station, the licensee may for the time being transfer them to his distribution staff; and if he so transfers any such employee the excess (if any) of his wages appropriate to his duties connected with the generating station over his wages appropriate to his duties connected with distribution shall be paid by the Board to the licensee as part of the costs to be ascertained under paragraph 4.

2. From the date of control the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking, except such quantity of electricity as the licensee may for the time being be entitled under paragraph 8 to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

3. Unless otherwise agreed between the board and the licensee, the licensee shall not, where he has received a notice under paragraph 1, purchase after the date of control any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchase any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of control or for such further period, if any, as the Board may allow, continue to purchase electricity under the said contract from such other source.

4. The Board shall pay to the licensee, whether or not any electricity is generated at the station, the costs ascertained in accordance with the provisions of the Eighth Schedule.

5. The price to be paid by the licensee for electricity supplied by the Board shall be determined in the manner provided in the appropriate Part of this Schedule.

6. The points at which electricity to be supplied under this Schedule shall be delivered by the Board and the licensee respectively shall, unless otherwise agreed between the Board and the licensee, be at the generating station, and the pressure of the supplies shall be such as the Board and the licensee may agree.

7. Where any licensee owns more than one controlled station—

(a) such of the several controlled stations as are interconnected shall, for the purposes of this Schedule, be deemed to comprise a single controlled station, and unless the subject or context otherwise requires, the provisions of this Schedule shall be construed as if the word "combined" had been inserted before the word "station" or the words "generating station" wherever they occur;

(b) the electricity supplied at the several controlled stations by the licensee to the Board, or by the Board to the licensee, shall each respectively be treated as single supplies;

(c) in the application of clause (a) of paragraph 12, the costs of production at each of the several controlled stations shall be separately ascertained, and in the application of clause (c) of the said paragraph—

(i) the sums ascertained in accordance with clause (a) of paragraph 1 of the Eighth Schedule in respect of each of the several controlled stations shall be separately allocated between fixed costs and running costs, and

(ii) the sum of the several fixed costs and the sum of the several running costs shall be the fixed costs and the running costs respectively of the combined station;

(d) in directing the operation of the combined station under clause (b) of sub-paragraph (1) of paragraph 1, the Board shall have regard to the nature and capacity of the licensee's transmission system interconnecting the several controlled stations and to the requirements of the licensee at each of those stations.

8. In the event of the licensee failing, except where prevented by causes beyond his control, to perform or continue to perform any obligation imposed upon him under this Part, the Board may give notice to him in writing that on the first day of the licensee's next succeeding year of account the generating station will be purchased by the Board, and on such day the Board shall purchase the station at a price determined in accordance with the Fourth Schedule; and thereafter—

(a) all the provisions of this Schedule except paragraph 2 and this paragraph shall, in relation to the licensee, cease to have effect;

(b) the Board shall supply the licensee with the electricity required by him under paragraph 2 at such price and on such conditions as the Board may determine.

PART II

Price to be paid for electricity supplied by the Board under Part I

9. There shall be agreed between the Board and the licensee in respect of each month of the licensee's year of account—

(a) the maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the station as were available for reliable and regular commercial operation on the first day of the month, including the capacity of such plant and works as were temporarily out of commission;

(b) the number and size of units of plant and works, forming part of the aforesaid plant and works, which ought properly to be deemed to be standby if the station were not a controlled station;

(c) the standby capacity of the station, that is to say, the number of kilowatts (expressed in kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account;

(d) the actual effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

10. (1) The licensee shall be entitled to purchase from the station in each month at a price determined under paragraph 13 a number of kilowatts not exceeding the scheduled effective capacity of the station on the first day of that month as determined in sub-paragraph (2).

(2) The scheduled effective capacity of the station shall be agreed between the Board and the licensee in respect of each month of the year of account, and shall be computed in the same manner as the actual effective capacity under paragraph 9, except that there shall be left out of account such units of plant and works, if any, forming part of the plant and works referred to in clause (a) of the said paragraph, as the licensee declares to be surplus to his requirements for the time being:

Provided that the licensee shall not declare to be surplus to his requirements any such units of plant or works as were installed or were on order at the date of control or which were included in any previous computation of the scheduled effective capacity:

Provided further that if as a result of the licensee declaring as surplus to his requirements any units of plant or works, the scheduled effective capacity is in respect of any month computed to be less than the maximum demand of the licensee on the station for the purposes of his own undertaking, then such units of plant or works and all further additional units of plant or works shall thereafter always be deemed to be surplus to the requirements of the licensee as aforesaid.

11. The licensee shall be entitled to purchase from the Board in each month at a price determined under paragraph 18 a number of kilowatt-hours not exceeding the number of kilowatt-hours which bears the same proportion to the total number of kilowatt-hours purchased by the licensee from the Board in the month as the scheduled effective capacity for the month bears to the maximum demand of the licensee on the Board in that month:

Provided that if the station is a hydro-electric station or if any unit of a combined station is a hydro-electric unit, the number of kilowatt-hours which the licensee shall be entitled to purchase as aforesaid shall be reduced by such amount, if any, as may be agreed between the Board and the licensee, having regard to the number of kilowatt-hours actually supplied in the month from such hydro-electric station or unit.

12. As soon as practicable after the end of a year of account—

(a) there shall be ascertained in respect of that year the cost of production at the station in accordance with the provisions of the Eighth Schedule;

(b) there shall be deducted from the total sum ascertained in respect of that year under clauses (b), (c), (d), (e) and (f) of paragraph 1 of the Eighth Schedule, such proportion of the charges referred to in the said clauses as are wholly attributable to so much of the plant and works, if any, as has been declared by the licensee under sub-paragraph (2) of paragraph 10 to be surplus to his requirements, and the balance remaining after such deduction shall for the purposes of this Schedule be referred to as the scheduled overhead charges.

Provided that in assessing the said proportion regard shall be had to the period during which any such plant or works were declared to be surplus as aforesaid;

(c) there shall be allocated between fixed costs and running costs in accordance with the provisions of the Ninth Schedule the sum ascertained in respect of that year under clause (a) of paragraph 1 of the Eighth Schedule, and the amount of running costs divided by the number of kilowatt-hours supplied from the station in that year shall for the purposes of this Schedule be referred to as the running charges component;

(d) there shall be ascertained in respect of that year an amount (in this Schedule referred to as the scheduled fixed works costs) calculated from the

expression,
$$\frac{A}{2} + \frac{A}{2} \times \frac{1}{C}$$
 where—

A = the amount of fixed costs ascertained in respect of that year under clause (c);

B = the sum of the scheduled effective capacities for each month of that year;

C = the sum of the actual effective capacities for each month of that year.

13. The licensee shall pay to the Board in respect of each month of the year of account for the electricity purchased under paragraphs 10 and 11—

(a) in respect of kilowatts, a sum equal to one-twelfth of the sum of the scheduled overhead charges and the scheduled fixed works costs;

(b) in respect of kilowatt-hours a sum found by multiplying the number of kilowatt-hours supplied by the running charges component:

Provided that if in any year of account the station for any reason ceases to generate electricity for one thousand hours or more, then for the purposes of ascertaining the running charges component and the scheduled fixed works costs under clauses (c) and (d) respectively of paragraph 12—

(i) the said clause (c) shall be construed as if there were substituted for the words "that year" in both places where they occur, the words "the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more" and as if to the said clause the following provisos were added, namely:—

"Provided that so much of the said sum as is represented by the cost of fuel shall be adjusted to take account of the cost which would have been incurred had that fuel been consumed at the prices prevailing in the actual year of account";

(ii) in evaluating the expression contained in the said clause (d), the letter C shall be deemed to be equal to the sum of the actual effective capacities for each month of the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more:

Provided further that if in any year of account there exist in the station any units of plant or works which have been declared by the licensee under sub-paragraph (2) of paragraph 10 to be surplus to his requirements in that year, there shall be added to the running charges component in respect of that year the amount, if any, by which that part of the said component attributable to the cost of fuel is less than ninety *per centum* of the corresponding part of the running charges component in respect of the year of account immediately preceding that in which earliest installed of the said units of plant or works first came into commercial operation in the station, and in ascertaining the corresponding part as aforesaid, the fuel consumed shall be deemed to be of the same average quality and to be consumed at the same average cost per ton as the fuel consumed in the year of account:

Provided further that if in respect of any month of the year of account any units of plant or works previously declared by the licensee as aforesaid to be surplus to his requirements are for the first time taken into account in assessing the scheduled effective capacity for that month, then in addition to the payment referred to in clause (a) the licensee shall pay to the Board a sum equal to any sums previously paid by the Board to the licensee on revenue account (in respect of any period prior to the date on which the said units of plant or works came into commission) by way of interest, depreciation, testing and tuning-up expenses attributable to the said units of plant or works; and the sum to be paid as aforesaid shall become due in one or more instalments and at such time or times as the Board may direct.

14. The price payable by the licensee to the Board for all electricity supplied by the Board to him in excess of the quantities referred to in paragraphs 10 and 11 shall be the Grid Tariff.

15. The licensee shall have the right at any time, on giving to the Board prior notice in writing expiring at the end of any year of account, to purchase from the Board at the Grid Tariff the whole of the electricity supplied to him by the Board:

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the scheduled effective capacity of the station becomes nil, pay to the Board in respect of each month in addition to the Grid Tariff one-twelfth of such proportion as the Board may fix of the

annual charges by way of interest and depreciation which would have been payable to the Board in respect of the year of account had the said notice not been given:

Provided further that in assessing the scheduled effective capacity for the purposes of the first proviso all units of plant or works which may have been under this Schedule declared or deemed to be surplus to the requirements of the licensee at the date of the expiration of the said notice and all additional units of plant or works shall after that date always be deemed to be surplus to the requirements of the licensee.

Provided further that after the expiration of the said notice the licensee shall not be entitled any time to purchase electricity from the Board at the price ascertained under paragraph 18.

PART III

Permanent closing down of a controlled station

16. The Board may give the licensee not less than six months' notice in writing expiring at the end of any year of account that from the first day of the next succeeding year of account it will not again direct the licensee to generate any electricity in the station, and upon that date (hereinafter in this Schedule referred to as the date of closing down) the station shall be permanently closed down.

17. From the date of closing down paragraphs 1, 4 and 8 shall, in relation to the station, cease to have effect, and on receipt of the notice under paragraph 16 the licensee shall have the option (to be exercised by a date not later than three months prior to the date of closing down) either—

(a) (i) to sell the station for his own benefit at any time after the date of closing down and

(ii) to purchase the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station at the date of closing down at a price determined under the Fourth Schedule, and

(ii) to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph 18.

18. Where a licensee exercises his option under paragraph 17 in terms of clause (b) thereof, the Board shall comply with the requirement to purchase the station under sub-clause (i) of that clause, and in applying the provisions of Part II to the purchase by the licensee of electricity supplied to him by the Board,—

(a) the station shall, notwithstanding that it has been permanently closed down, be deemed to remain a controlled station in operation but to be such a station which has ceased to generate electricity for one thousand hours or more during each year of account;

(b) clause (a) of paragraph 9 shall be construed as if the following were substituted therefor, namely:—

“(a) the maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of each month, had the station not been closed down under Part III and had no replacement of any major item of such plant or works been carried out:”

(c) clause (a) of paragraph 12 shall be construed as if the following were substituted therefor, namely:—

“(a) there shall be ascertained in respect of the year of account such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under Part III as would have resulted from the application of clauses (e) and (f) of paragraph 1 of the Eighth Schedule had those assets remained in the ownership of the licensee;”

(d) clause (b) of paragraph 12 shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph 1 of the Eighth Schedule were omitted.

(e) there shall be added to the sum payable by the licensee to the Board under clause (a) of paragraph 18 in each month of the year of account a sum equal to one-twelfth of the amount calculated from the expression, $\frac{A \times B}{C}$ where—

A = that part of the scheduled overhead charges payable by the licensee to the Board in respect of the most recent year of account during which the station did not cease to generate electricity for one thousand hours or more, which relates to the items referred to in clauses (b), (c) and (d) of paragraph 1 of the Eighth Schedule;

B = the sum of the scheduled effective capacities for each month of the year of account;

C = the sum of the scheduled effective capacities for each month of the most recent year of account as aforesaid.

PART IV

Purchase by Board of controlled station not to be closed down

19. Where in respect of any month notified by the Board (and hereinafter in this Schedule referred to as the relevant month), the scheduled effective capacity of the station is computed under paragraph 10 to be less than one-half of the actual effective capacity of the station, the Board may give to the licensee six months' notice in writing that on the first day of the year of account next following the date of expiration of such notice the station will be purchased by the Board.

20. Notwithstanding anything contained in paragraph 10, in computing the Scheduled effective capacity for purposes of paragraph 19 there shall be left out of account all such units of plant and works as would not reasonably have been required by the licensee for purposes other than supply to the Board had the station not been a controlled station.

21. Where a notice under paragraph 19 has been served by the Board on the licensee, the Board shall purchase the station at the date specified in the notice and at a price determined under the Fourth Schedule.

22. From the date of purchase of the station under paragraph 21 the provisions of paragraphs 1, 4 and 8 shall, in relation to the station, cease to have effect, and the licensee shall be required to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph 28.

23. In applying the provisions of Part II to the purchase by a licensee whose station has been purchased under this Part of electricity supplied to him by the Board,—

(a) the station shall, notwithstanding that it has been purchased by the Board, be deemed to remain a controlled station;

(b) clause (a) of paragraph 12 shall be construed as if the reference therein to the provisions of the Eighth Schedule excluded a reference to clauses (b), (c) and (d) of paragraph 1 of that Schedule, and as if the following proviso were added to the said clause (a), namely.—

“Provided that the annual charges to be included in accordance with clauses (e) and (f) of paragraph 1 of the said Schedule shall be such as would have resulted had the assets purchased by the Board under Part IV remained in the ownership of the licensee”,

(c) clause (b) of paragraph 12 shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph 1 of the Eighth Schedule were omitted;

(d) there shall be added to the sum payable by the licensee to the Board under clause (a) of paragraph 13 in each month of the year of account a sum equal to one-twelfth of the amount calculated from the expression, $\frac{A \times B}{C}$ where—

A=that part of the scheduled overhead charges payable by the licensee to the Board in respect of the last year of account in which the station was in the ownership of the licensee, which relates to the items referred to in clauses (b), (c) and (d) of paragraph 1 of the Eighth Schedule;

B=the sum of the scheduled effective capacities for each month of the year of account;

C=the sum of the scheduled effective capacities for each month of the said last year of account.

THE SECOND SCHEDULE

(See section 84)

Supply by Board to licensees owning stations other than controlled stations

1. Before the end of each year the Board shall declare to the licensee in respect of each of the two next succeeding years the maximum number of kilowatts which it will make available for the purpose of the licensee's undertaking.

2. Where the Board and the licensee agree that the number of kilowatts declared under paragraph 1 will be inadequate to meet the requirements of the licensee having regard to the capacity of the licensee's generating plant, the Board shall not refuse its consent under section 43, the provisions of that section notwithstanding, to the installation by the licensee of such generating plant as he may reasonably require for the purposes of his undertaking, unless the Board is able appropriately to amend its declaration.

3. The licensee shall be entitled to demand from the Board, and the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, a maximum number of kilowatts in each year not exceeding, without the consent of the Board, the maximum number of kilowatts declared under this Schedule in respect of that year.

4. The point at which the electricity to be supplied under this Schedule shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

5. The Board shall bear the whole of the cost of the service apparatus required for making the supply under this Schedule available to the licensee.

6. The price to be paid by the licensee to the Board in respect of each year for electricity supplied under this Schedule shall be the Grid Tariff.

THE THIRD SCHEDULE

(See sections 88 and 85)

Closing down of generating stations other than controlled stations

1. Where the Board proposes under section 85 permanently to close down a generating station other than a controlled station, it shall give the licensee owning the station not less than six months' notice in writing expiring at the end of any year of account that from the first day of the next succeeding year of account (hereafter in this Schedule referred to as the date of closing down) the station shall be permanently closed down.

2. From the date of closing down the Board shall be under obligation to supply to the licensee, except where prevented by causes beyond its control, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking, except such quantity of electricity as the licensee may for the time being be entitled under paragraph 3 to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

3. Unless otherwise agreed between the Board and the licensee, the licensee shall not, where he has received a notice under paragraph 1, purchase after the date of closing down any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchase any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of closing down or for such further period, if any, as the Board may allow, continue to purchase electricity under the said contract from such other source.

4. (1) The point at which electricity to be supplied by the Board shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

(2) The Board shall bear the whole of the cost of the service apparatus required for making the supply available to the licensee.

5. The licensee shall have the option, to be exercised by a date not later than three months prior to the date of closing down, either—

(a) (i) to sell the station for his own benefit at any time after the date of closing down, and

(ii) to purchase the whole of the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station at the date of closing down at a price determined under the Fourth Schedule, and

(ii) to purchase the whole of the electricity supplied to him by the Board on the terms hereafter set out in this Schedule.

6. Where a licensee exercises his option under paragraph 5 in terms of clause (b) thereof, the Board shall comply with the requirement to purchase under sub-clause (i) of that clause, and the following provisions of this Schedule shall apply.

7. As soon as practicable after the licensee has exercised his option as afore said, there shall be ascertained in agreement between him and the Board the following quantities in respect of each year of account subsequent to the date of closing down, namely:—

(a) The maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant

and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of the year of account, had the station not been closed down under this Schedule and had no replacement of any major item of such plant or works been carried out.

(b) The number and size of units of plant and works, forming part of the aforesaid plant and works, which would have represented reasonable standby in the station.

(c) The standby capacity of the station, that is to say, the number of kilowatts (expressed in kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account.

(d) The agreed effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

8. As soon as practicable after the date of closing down there shall be ascertained in agreement between the Board and the licensee in respect of each of the three consecutive years of account immediately preceding the date of closing down (hereafter in this Schedule referred to as the basic years)—

(a) the sums expended by the licensee and wholly attributable to the generation of electricity under the following heads, namely:—

(i) fuel;

(ii) oil, water and stores consumed;

(iii) salaries and wages and any contribution by the licensee for pensions, provident fund, superannuation and insurance of officers and servants;

(iv) repairs and maintenance, and renewals not chargeable to capital account;

(v) management, rents, rates and taxes (including super-tax payable by the licensee as a company, but excluding other taxes on profits), insurance of plant and general establishment charges;

(vi) any other expense on revenue account;

(b) the actual effective capacity of the station on the first day of each such year agreed in accordance with the principles set out in paragraph 9 of the First Schedule

9. As soon as practicable after the beginning of each year of account there shall be ascertained in respect of that year such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under this Schedule as would have resulted from the application of clauses (e) and (f) of paragraph 1 of the Eighth Schedule, had those assets remained in the ownership of the licensee.

10. The licensee shall be entitled to purchase from the Board in each year of account at a price determined under paragraph 11—

(a) a number of kilowatts not exceeding the agreed effective capacity ascertained in respect of that year under paragraph 7, and

(b) a number of kilowatt-hours not exceeding the number of kilowatt-hours which bears the same proportion to the total number of kilowatt-hours required by the licensee in that year for the purposes of his undertaking as the agreed effective capacity ascertained in respect of that year bears to the total maximum demand of the licensee in that year for the said purposes.

11. The price payable by the licensee in respect of each year of account for the quantity of electricity specified in paragraph 10 shall be—

(a) in respect of kilowatts, a fixed charge equal to the sum of—

(i) an amount calculated from the expression $\frac{A}{2} + \frac{A}{2} \times \frac{B}{C}$

(ii) an amount calculated from the expression $\frac{B \times D}{C}$

(iii) the annual charges by way of interest and depreciation ascertained in respect of the year of account under paragraph 9, where—

A=one-third of the total costs during the basic years under heads (ii), (iii), (iv) and (vi) set out in clause (a) of paragraph 8;

B=the agreed effective capacity for the year of account;

C=one-third of the sum of the actual effective capacities [ascertained under clause (b) of paragraph 8] for each of the basic years;

D=one-third of the total costs during the basic years under head (v) set out in clause (a) of paragraph 8;

(b) in respect of kilowatt-hours, a running charge per kilowatt-hour ascertained—

(i) by multiplying the total number of tons of fuel consumed in the station in the basic years by the estimate agreed between the Board and the licensee of the cost per ton which would have been incurred in delivering and handling the same quantity of fuel of equivalent calorific value to the furnaces in the station during the year of account, had the station remained in the ownership of the licensee, and

(ii) by dividing the total cost so found by the total number of units sent out from the station in the basic years.

12. The price payable by the licensee for all electricity supplied to him by the Board in excess of the quantity specified in paragraph 10 shall be the Grid Tariff.

13. The licensee shall have the right at any time on giving the Board prior notice in writing expiring at the end of a year of account of purchase at the Grid Tariff the whole of the electricity supplied to him by the Board:

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the agreed effective capacity of the station becomes nil, pay to the Board in each year of account in addition to the Grid Tariff a sum equal to such proportion as the Board may fix of the annual charges by way of interest and depreciation ascertained in respect of the year under paragraph 9:

Provided further that after the expiration of the said notice, the licensee shall not be entitled at any time to purchase electricity from the Board at the price ascertained under paragraph 11.

THE FOURTH SCHEDULE

(See section 36 and First and Third Schedules)

Price for generating stations and main transmission lines purchased by the Board**1. For the purposes of this Schedule—**

(a) "date of vesting" means the date on which the generating station, main transmission line or asset forming part of such station or line, as the case may be vests in the Board;

(b) "original cost" of an asset means the amount of expenses certified or determined under paragraph 2 to have been properly incurred on and incidental to the provision of the asset for the purposes of the generating station or main transmission line, as the case may be;

(c) "prescribed period" means in respect of each of the assets specified in the Table appended to the Seventh Schedule, the number of years or period specified therein in relation to such asset, running in each case from the beginning of the financial year of the owner of the asset next following that in which the asset became available for use for the purposes of the generating station or main transmission line, as the case may be.

2. The price to be paid for any generating station or main transmission line purchased by the Board under this Act shall be such sum as may be certified by an auditor appointed by the Provincial Government in this behalf to have been the amount properly incurred on and incidental to the establishment of the station or main transmission line, as the case may be, less depreciation thereon on the scale set out in paragraph 3.

Provided that there shall be added to such sum as aforesaid on account of compulsory purchase, such percentage, if any, not exceeding twenty *per centum* or that sum, as may be payable under the licence of the licensee in respect of compulsory purchase:

Provided further that if the Board or the owner of the station or main transmission line is dissatisfied with the sum so certified, the matter shall, in default of agreement between them, be determined as provided in section 74.

3. The scale of depreciation referred to in paragraph 2 shall be in respect of the portion of the prescribed period prior to the date of vesting,—

(a) for land owned under full title, including the cost of clearing the site, nil;

(b) for other assets specified in the Table appended to the Seventh Schedule, the amount which would be produced by the end of the said portion of the prescribed period if during that portion an allowance were made annually and accumulated at compound interest at the rate of $4\frac{1}{2}$ *per centum per annum* of such an amount as would if made annually throughout the whole of the prescribed period and accumulated at compound interest at the said rate produce by the end of that period an amount equal to the original cost of the asset

4. The auditor appointed under paragraph 2 shall be a person qualified under the provisions of section 144 of the Indian Companies Act, 1913 (VII of 1913) to act as an auditor of companies.

5. The auditor's costs under this Schedule shall be shared equally by the Board and the licensee concerned.

THE FIFTH SCHEDULE

(Sec section 40)

Charges for use by Board of transmission lines and main transmission lines

1. The following charges and allowances shall be made in respect of a year of account for the use by the Board of main transmission lines or transmission lines (hereafter in this Schedule referred to as lines), namely:—

(a) the actual cost of maintenance of the lines, including renewals thereof not chargeable to capital account;

(b) sums paid in respect of the lines as rents, rates and taxes (including super tax payable by the licensee as a company but excluding other taxes or profits) and for insurance;

(c) the proportion of management and general establishment charges properly attributable to the lines;

(d) any other expenses on revenue account properly attributable to the lines;

(e) interest on money properly expended for capital purposes (whether defrayed out of capital or revenue) and attributable to the lines, and interest on such working capital as is properly attributable to the lines:

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal on which interest is payable out of capital;

(f) an allowance for depreciation of an amount determined in respect of the lines in accordance with the scale set out in the Seventh Schedule.

2. If the lines are used partly by the Board and partly by the licensee owning them, or if the arrangement for their use comes into force or determines otherwise than at the beginning or end of a year of account, the charges and allowances referred to in paragraph 1 shall be the proper proportion thereof having regard to the use made of the lines by the Board and the period of such use during the year and with the addition of the cost of such additional transmission losses as may have been incurred by the licensee as a result of the Board's user of the lines

3. For the purposes of clause (e) of paragraph 1 the rate of interest shall be—

(a) where the licensee owning the lines is a local authority, the average rate payable on the money raised by that authority for the purpose of constructing the lines;

(b) in any other case, $2\frac{1}{2}$ per centum per annum over the average Reserve Bank rate in the year of account.

THE SIXTH SCHEDULE

(See section 56)

Financial provisions to be incorporated in licences

For the purposes of this Schedule:—

1) "capital employed" means the sum total of—

(a) the original cost of fixed assets,

(b) the cost of intangible assets,

(c) the original cost of works in progress,

(d) the amount of investments,

(e) an amount on account of working capital computed,

unless otherwise agreed between the Board and the licensee, as being the average book cost of stores, materials and supplies including fuel on hand at the end of each monthly accounting period during the year of account *plus* one-sixth of the annual operating expenses, excluding taxes and depreciation expenses.

(2) "clear profits" means the difference between income and the sum of expenditure *plus* specific appropriations, made up in each case as follows, namely:—

(a) income derived from—

- (i) gross receipts from the sale of electricity less discount applicable thereto,
- (ii) rental of meters and other apparatus on the premises of consumers,
- (iii) sale and repair of lamps, appliances, fittings and apparatus,
- (iv) rents, less outgoings not otherwise provided for,
- (v) transfer fees,
- (vi) investments, fixed and call deposits and bank balances,

(vii) other general receipts accountable under the law for the time being in force in the assessment of income-tax and arising from the business of electric supply:

(b) expenditure incurred on—

- (i) generation or purchase of electricity
- (ii) distribution and sale of electricity
- (iii) rents, rates and taxes other than taxes on income,
- (iv) interest on debenture capital,

(v) interest on other borrowed money not exceeding, unless otherwise agreed between the Board and the licensee or unless such interest is payable pursuant to a contract entered into prior to the last day of the licensee's year of account ended in the year 1948, such amount as would have been payable had the money been borrowed at the average Reserve Bank rate in the year of account *plus* one *per centum*.

(vi) interest on security deposits

(vii) legal charges,

(viii) bad debts,

(ix) auditor's fees,

(x) management,

(xi) depreciation, computed in accordance with this Schedule,

(xii) other expenses admissible under the law for the time being in force in the assessment of income-tax and arising from the business of electric supply;

(c) special appropriations sufficient to cover—

(i) previous losses (that is to say, excess of expenditure over income) which have arisen from the business of electric supply, to the extent in any year of account actually appropriated for the purpose in the books of the licensee,

(ii) super-tax payable by the licensee as a company,

(iii) new capital issue expenses,

(iv) write-down of intangible assets, to the extent in any year of account actually appropriated for the purpose in the books of the licensee, but not in any case exceeding the amount found by dividing the written down costs of such assets by the number of complete years remaining before the next option of purchase under the licence arises,

(v) interest due on preference capital not exceeding, unless otherwise agreed between the Board and the licensee or unless such interest is payable pursuant to a contract entered into prior to the last day of the licensee's year of account ended in the year 1943, such amount as would have been payable had the interest been due at the standard rate, less income-tax,

(vi) contributions to Contingency Reserve B, computed in accordance with this Schedule,

(vii) contributions to provident funds, staff pensions, gratuity schemes and apprentice training schemes,

(8) "debenture capital" means capital raised against debentures or other instruments creating a charge or lien on the assets of the undertaking,

(4) "fixed assets" means fixed assets fairly acquired and required in the business of electric supply;

(5) "intangible assets" means goodwill, underwriter's commission and such preliminary and promotional expenditure debited in the capital account of the undertaking as has fairly arisen in promoting the business of electric supply;

(6) "ordinary capital" means the nominal amount paid up, or deemed to be paid up, of ordinary capital attributable to the undertaking of the licensee, whether subscribed in cash or issued for equivalent consideration;

(7) "original cost" means in respect of any asset the sum of—

(a) the cost of the asset to the licensee, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use,

(b) interest charges on capital expenditure properly attributable to the asset up to the date of bringing it into use,

(c) a proper addition on account of supervision, not exceeding fifteen *per centum* of the cost referred to in sub-clause (a),—

so however that the original cost of any asset shall not in any case exceed the original cost attributed thereto in the books of the licensee;

(8) "preference capital" means the nominal amount paid up, or deemed to be paid up, of the capital attributable to the undertaking of the licensee, whether issued in cash or for equivalent consideration, issued on such preferred terms as the Board and the licensee may agree to be sufficient to qualify it for such description;

(9) "prescribed period" means in respect of each of the assets specified in the Table appended to the Seventh Schedule, the number of years or period specified therein in relation to such asset, running in each case from the beginning of the year of account next following that in which the asset become available for use in the business;

(10) "reasonable return" means in respect of any year of account the sum of the following, namely:—

(a) the amount found by applying the standard rate to the amount of capital employed at the end of that year, after deducting the sum of—

(i) the amounts written off or set aside on account of depreciation of fixed assets or write down of intangible assets in the books of the licensee as at the last day of his year of account ended in the year 1943,

(ii) the amounts so written off or set aside after the said day,

(iii) the amount of preference capital, debenture capital and other borrowed money,

(iv) the amount whichever is less by which Contingencies Reserve B falls short either of five *per centum* of the original cost of fixed assets or of the total of other reserves, in the computation of which the amounts referred to in this sub-clause as written off or set aside shall be left out of account,

- (v) investments other than those required to be made under paragraph 4;
- (b) the income derived from investments other than those required to be made under paragraph 4;
- (c) half the difference between the interest payable on debenture capital (other than on loans advanced by the Board under paragraph 1 of the First Schedule) and such greater amount as would have been payable had the money been borrowed at the standard rate:

Provided that if the licensee represents to the Board that any amounts written off or set aside as are referred to in sub-clause (a) (i) were excessive and should be written back, there may be written back in the books of the licensee such amounts as the Board and the licensee agree to be reasonable, and the amounts referred to in sub-clause (a) (i) shall be deemed to be reduced by the amounts so written back.

Provided further that in any such representation the licensee shall be required to satisfy the Board *inter alia* that any amounts which he desires to write back as aforesaid have been found from reasonable profits in the past and not from excessive charges for the supply of electricity;

(11) "standard rate" means in respect of any year of account the average Reserve Bank rate for that year plus, in the case of an undertaking less than ten years old, $6\frac{1}{2}$ per centum, or in any other case, $4\frac{1}{2}$ per centum.

(12) "written down cost" means the original cost, less the amounts written off or set aside on account of depreciation or write-down in the books of the licensee.

2. If the clear profits of a licensee in any year of account are in excess of that amount which affords a reasonable return, two-thirds of such excess shall be carried to a reserve to be called Tariffs and Dividends Control Reserve A.

3. (1) The licensee shall so regulate his financial policy that Tariff and Dividends Control Reserve A shall not, without the consent of the Board exceed two-thirds of the amount of the reasonable return in any year of account.

(2) The said reserve shall be available for disposal by the licensee only to the extent in any year of account by which the clear profits are less than the reasonable return.

(3) On the purchase under the licence of the undertaking, any balance of the said reserve shall, after deducting such amount as would have been due thereon on account of income-tax had the said balance formed part of the profits of the previous year of account, be handed over to the purchaser or deducted in assessing the value of the undertaking for the purposes of purchase.

4. (1) There shall be created from existing reserves or from the revenues of the undertaking a reserve to be called Contingencies Reserve B.

(2) The amount of the said reserve or the first one lakh of rupees thereof, whichever is less, shall be invested in Government securities.

5. The licensee shall appropriate to Contingencies Reserve B from the revenues of each year of account a sum not less than one-quarter of one per centum, or more than one-half of one per centum, of the original cost of fixed assets:

Provided that if the said reserve exceeds, or would if such appropriation be caused to exceed, five per centum of the original cost of fixed assets, no such appropriation shall be made.

6. Contingencies Reserve B shall not be drawn upon during the currency of the licence except to meet such charges as the Board and the licensee may agree as being—

(a) expenses or loss of profits arising out of accidents, strikes or other circumstances which due care and management could not have prevented, or

(b) expenses of replacement or removal of plant or works, other than expenses required for maintenance or renewal,

(c) compensation payable under any law for the time being in force to officers or servants of the licensee, and not otherwise provided for.

7. (1) There shall be allowed in each year of account in respect of depreciation of fixed assets such amount as will, after taking into account the sums already written off or set aside in respect of such assets in the books of the licensee, contribute sufficiently, in accordance with either the straight line method or the compound interest method of depreciation accounting, towards the ultimate extinction from the balance sheet of the cost of each asset at the end of the prescribed period.

(2) The year in which any asset became available for use in the business and its cost shall, in the absence of satisfactory record, be agreed between the Board and the licensee.

Explanation 1.—That the licensee may have changed his method of depreciation accounting on one or more occasions in the past is not material so long as one of the methods specified in this paragraph is adopted from the date referred to in sub-section (1) of section 56, which taking account of the amount already written off or set aside in the books of the licensee, is designed to result in the extinction of the cost of each asset from the balance sheet at the end of the prescribed period.

Explanation 2.—If the compound interest method is used, annual interest on the accumulated balance will be allowed as an expense from revenue as well as the annual incremental deposit, both being component parts of the rate of depreciation under the said method.

8. (1) Where any fixed asset ceases to be available for use through obsolescence, inadequacy, superfluity or for any other reason, it shall be described in the books of the licensee as no longer in use, and no further depreciation in respect thereof shall be allowed as a charge against the clear profits.

(2) The written down cost of such a fixed asset shall be carried to a special account in the books of the licensee, and the amount thus shown shall be decreased by the amount for which the asset is sold or of its scrap value when actually realised.

(3) The resultant net balance attributable to such asset shall be charged against Contingencies Reserve B by equal annual instalments from the year of account in which the asset ceases to be available for use as aforesaid up to the date of the next option of purchase of the undertaking under the licence or up to the expiration of the prescribed period, whichever is earlier.

9. When any asset is fully written off in the books of the licensee, no further depreciation shall be allowed thereon.

10. Where any fixed asset is sold for an amount exceeding its written down cost, the excess shall be credited to Contingencies Reserve B.

11. Notwithstanding anything contained elsewhere in this Schedule, no sums shall, except with the consent of the Board, be carried to a reserve, and no dividends on ordinary or preference capital or any other distribution of profits shall be made, while any sum allowed in respect of depreciation under this Schedule remains to be written off in the books of the licensee.

12. Arrears of depreciation allowed under this Schedule but remaining to be written off in the books of the licensee may be taken into account as an expense for the purposes of assessing the clear profits in any year of account.

13. Receipts on account of service lines paid for by consumers and laid after the date referred to in sub-section (1) of section 56 shall not be included in the revenue account for the purpose of assessing the clear profits, and only the net cost of such service lines after deducting such receipts shall be included in the original cost of fixed assets for the purpose of ascertaining the capital employed.

14. (1) Subject to the provisions of sub-paragraph (2), the ordinary remuneration which may be paid to a managing agent by a licensee in respect of his undertaking in any year of account shall not exceed, without the consent of the Board, a sum based on a percentage of the net profits as follows, namely:—

- (a) on the first five lakhs of rupees of such profits, ten *per centum*,
- (b) on the next ten lakhs of rupees of such profits, seven *per centum*,
- (c) on the next ten lakhs of rupees of such profits, four *per centum*,
- (d) on all such profits in excess of twenty-five lakhs of rupees, two *per centum*,—

together with an office allowance not exceeding the minimum payment calculated under sub-paragraph (2)

(2) Where the net profits are absent or inadequate for the purposes of sub-paragraph (1), there may be made to a managing agent as ordinary remuneration in any year of account a minimum payment not exceeding one-fifth of one *per centum* of the total of the ordinary, preference and debenture capital of the undertaking.

(3) For the purposes of sub-paragraph (2), where the said total of capital—

(a) is less than five lakhs of rupees, it shall be deemed to be five lakhs of rupees;

(b) is greater than one crore of rupees, it shall be deemed to be one crore of rupees.

(4) For the purposes of this paragraph—

(a) “net profits” has the meaning assigned to it in sub-section (3) of section 87C of the Indian Companies Act, 1914 (VII of 1914);

(b) “ordinary remuneration” includes the usual services of directors, partners and proprietors of a managing agency (including the formulation or guidance of policy relating to the licensee's undertaking and the promotion and supervision of the business and general well-being of the undertaking), but does not include the salaries and wages of clerks, operators and other servants engaged by the managing agent for the business of the undertaking or the remuneration, salary or wages payable to managers, secretaries, engineers, electricians, bankers, solicitors, experts, commission agents, dealers, maccudums, brokers or other persons who may be engaged by the managing agent for or on behalf of the undertaking, or any expenses of like nature incurred in carrying on and conducting the business of the undertaking.

15. (1) Where the undertaking of the licensee is controlled by directors, the number of such directors shall not, without the consent of the Board, exceed five, unless the total of the ordinary, preference and debenture capital of the undertaking exceeds five lakhs of rupees; and for every additional ten lakhs of rupees or part thereof such capital, there may be added one director, so however that the total number of directors in no case exceeds twelve.

(2) Except with the permission of the Board, the remuneration of a director shall not exceed one hundred rupees a meeting in the case of the Chairman, or seventy-five rupees a meeting in any other case.

(8) For the purposes of sub-paragraph (2), "remuneration of a director" does not include the remuneration of a director who is required to devote substantially the whole of his time to the service of the undertaking in a managerial or technical capacity, or the remuneration of a managing agent.

15. (1) Where at any time within three years before the next option of purchase under the licence arises, the licensee proposes to make any capital expenditure which exceeds fifty thousand rupees in respect of any single item and in respect of which any amount would in the event of purchase under the option be payable by the purchaser to the licensee, the licensee shall before giving effect to such proposal inform the Board thereof.

(2) If the Board within one month from receiving such information objects to such expenditure as aforesaid, a question shall be deemed to have arisen between the Board and the licensee within the meaning of section 74, and such question shall be determined under that section.

17. Where the licensee without reasonable excuse fails to comply with any or the provisions of this Schedule, the Provincial Government may revoke his licence, and where a licence is revoked under this paragraph the provisions of the Indian Electricity Act, 1910 (IX of 1910) shall apply as if the licence had been revoked under that Act.

THE SEVENTH SCHEDULE

(See section 67 and the Fifth and Eighth Schedules)

Depreciation of assets

1. For the purposes of this Schedule—

(a) "financial year" means the financial year of the owner of the asset concerned;

(b) "original cost" of an asset means the amount properly expended for capital purposes and attributable to the asset;

(c) "prescribed period" means in respect of each of the assets specified in the Table appended to this Schedule, the number of years or period specified therein in relation to such asset, running in each case from the beginning of the financial year next following that in which the asset became available for use in the undertaking.

2. (1) Save as provided in the Fourth and Sixth Schedules, the scale of depreciation applicable to the assets specified in the Table appended to this Schedule in any financial year, and proportionately for any portion of a financial year, shall be an allowance of such amount as would if made annual throughout the prescribed period and accumulated at compound interest at the rate of $4\frac{1}{2}$ per centum per annum produce by the end of such period an amount equal to the original cost of the asset.

(2) Such allowance shall cease at the end of the prescribed period or when the asset ceases to be used for the purposes of the undertaking, whichever is earlier:

TABLE

(See also section 56 and the Fourth and Sixth Schedules)

Description of asset	Number of years or period
A. Land owned under full title	Infinity.
B. Land held under lease—	
(a) for interest in the land	The period of the lease, or the period remaining unexpired on the assignment of the lease.
(b) for cost of clearing site	The period of the lease remaining unexpired at the date of clearing the site.
C. Assets purchased new—	
(a) Plant and machinery in generating stations, including plant foundations—	
(i) hydro-electric	Thirty.
(ii) steam-electric	Twenty.
(iii) diesel-electric	Fifteen.
(b) Cooling towers and circulating water systems	Thirty.
(c) Hydraulic works forming part of a hydro-electric system, including dams, spillways, weirs, canals, reinforced concrete flumes and syphons, reinforced concrete pipe-lines and surge tanks, steel pipelines, sluice gates, steel surge tanks, hydraulic control valves and other hydraulic works	Such reasonable period as the Board and the owner agree in each case, having regard to the nature of the works.
(d) Buildings and civil engineering works of a permanent character, not mentioned above, —	
(i) office and show-rooms	Thirty.
(ii) containing thermo-electric generating plant	Thirty.
(iii) containing hydro-electric generating plant	Thirty.
(iv) temporary erections such as wooden structures	Five.
(v) others	Thirty.

Description of asset	Number of years or period
(e) Transformers, transformer kiosks, sub-station equipment and other fixed apparatus (including plant foundations) —	
(i) transformers having a rating of 100 kilovolt amperes and over (including foundations)	Thirty
(ii) others	Twenty.
(f) Switchgear, including cable connections	Twenty.
(g) Batteries	Ten.
(h) Underground cables, including joint boxes, disconnecting boxes and ducts	Forty.
(i) Overhead lines, including supports —	
(i) lines on steel or reinforced concrete supports, operating at nominal voltages higher than 13·2 kilovolts	Thirty.
(ii) other lines on steel or reinforced concrete supports	Twenty-five
(iii) lines on wood supports	Twenty.
(j) Meters	Ten.
(k) Self-propelled vehicles	Seven.
(l) Static machine tools	Twenty
(m) Air-conditioning plant —	
(i) static	Fifteen
(ii) portable	Seven.
(n) Office furniture and equipment	Ten.
(o) Apparatus let on hire,—	
(i) other than motors or meters	Seven
(ii) motors and meters	Ten.
D. Assets purchased second hand and assets not otherwise provided for in this Table	Such reasonable period as the Board determines in each case, having regard to the nature, age and condition of the asset at the time of its acquisition by the owner.

THE EIGHTH SCHEDULE

(See the First and Third Schedules)

Determination of cost of production of electricity at generating stations

1. For the purposes of the First and Third Schedules, the cost of production of electricity at a generating station shall be ascertained by calculating and taking into account the following costs, charges and allowances in respect of the year of account, namely:—

(a) sums expended for fuel, oil, water and stores consumed, for salaries and wages, and any contribution by the licensee for pensions, provident fund, superannuation and insurance of officers and servants, for repairs and maintenance and for renewals not chargeable to capital account;

(b) sums paid in respect of the station as rents, rates and taxes (including super-tax payable by the licensee as a company but excluding other taxes on profits) and for insurance;

(c) the proportion of management and general establishment charges properly attributable to the station;

(d) any other expenses on revenue account properly attributable to the station;

(e) interest on money properly expended for capital purposes (whether defrayed out of capital or revenue) and attributable to the station, and interest on working capital properly attributable to the station and the production of electricity therein;

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal on which interest is payable out of capital;

(f) an allowance for depreciation of an amount determined in respect of the station in accordance with the scale set out in the Seventh Schedule

2. For the purposes of clause (e) of paragraph 1 of the rate of interest shall be—

(a) on such part of the principal on which interest is payable within the meaning of the said clause as has been advanced on loan by the Board under paragraph 1 of the First Schedule, the actual rate charged by the Board on the loan in the year of account;

(b) on the balance of the said principal,—

(i) where the licensee owning the station is a local authority, the average rate payable in the year of account on the money raised by that authority for the purposes of the station;

(ii) in any other case, $2\frac{1}{2}$ per centum per annum over the average Reserve Bank rate in the year of account

THE NINTH SCHEDULE

(See the First Schedule)

Allocation of costs of production at generating stations

1. For the purposes of this Schedule—

(a) the average load Factor of a station shall be expressed as a percentage, and shall be ascertained by multiplying the number of kilowatt-hours supplied from the station during the year of account by 100, and dividing the product so obtained by the product of the average monthly maximum demand multiplied by the number of hours during which the station was in commission in the year of account;

(b) the average monthly maximum demand shall be the arithmetical average of the monthly maximum demands on the station in those calendar months during which the station was in commission in the year of account;

(c) a station shall be deemed to be in commission when the whole or any portion of the plant in the station is generating electricity or is in readiness to generate electricity upon demand.

(d) "cost of fuel" means the sums expended for fuel consumed plus the cost of any transport, handling, preparation or treatment incurred in connection with the delivery of fuel to the boiler hoppers, furnaces or engines and in connection with the disposal of the products or residues of combustion, plus the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants properly attributable to such delivery or disposal, less any sums received from the sale of any products or residues of combustion;

(e) "cost of oil, water and stores" means the sums expended for oil, water and stores consumed;

(f) "cost of repairs, maintenance and renewals" means the sums expended for repairs and maintenance and for renewals not chargeable to capital account, together with the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants properly attributable to repairs, maintenance and renewals;

(g) "salaries and wages" means the sums expended for salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants, less the proportion of such sums properly attributable to the cost of fuel under clause (d) and to the cost of repairs, maintenance and renewals under clause (f).

2. Of the costs of production of electricity at a generating station ascertained in accordance with the Eighth Schedule, the following costs, charges and allowances in respect of the year of account shall be allocated as "fixed costs", namely:—

(a) of the costs, charges and allowances set out in clause (a) of paragraph 1 of the said Schedule, portions calculated from the appropriate formulae set out in paragraph 3;

(b) the whole of the costs, charges and allowances set out in the remaining clauses of paragraph 1 of the said Schedule.

3. The portion of the following costs, charges and allowances to be allocated as fixed costs shall be ascertained from the formula hereinafter set out against each, namely:—

(a) cost of fuel	$\frac{100}{100 + 12.8 L};$
(b) cost of oil, water and stores	$\frac{100}{100 + 9.66 L};$
(c) salaries and wages	$\frac{100}{100 + 0.38 L};$
(d) cost of repairs, maintenance and renewals	$\frac{100}{100 + 0.0001 N L};$

where—

L=the average load factor of the station;

N=the number of hours during which the station was in commission in the year of account.

4. The amount of the difference between the costs of production at a generating station ascertained in accordance with the Eighth Schedule and the fixed costs in respect of the year of account determined in accordance with this Schedule shall be allocated as "running costs"

5. The foregoing provisions of this Schedule shall not apply in any case where it is agreed between the Board and the owner of the station that the circumstances or conditions of operation in the station, whether temporary or continuing, are such that the said provisions ought not reasonably to be applied; and in such case the allocation between fixed costs and running costs shall be made in such manner as the Board and the said owner may agree.

STATEMENT OF OBJECTS AND REASONS

The co-ordinated development of electricity in India on a regional basis is a matter of increasingly urgent importance for post-war reconstruction and development. The absence of co-ordinated system, in which generation is concentrated in the most efficient units and bulk supply of energy centralised under the direction and control of one authority is one of the factors that impedes the healthy and economical growth of electrical development in this country. Besides, it is becoming more and more apparent that if the benefits of electricity are to be extended to semi-urban and rural areas in the most efficient and economical manner consistent with the needs of an entire region, the area of development must transcend the geographical limits of a Municipality, a Cantonment Board or a Notified Area Committee, as the case may be. It has, therefore, become necessary that the appropriate Governments should be vested with the necessary legislative powers to link together under one control electrical development in contiguous areas by the establishment of what is generally known as the "Grid System". In the circumstances of this country such a system need not necessarily involve inter-connection throughout the length and breadth of a Province; regional co-ordination inclusive of some measure of inter-connection may be all that is needed. An essential pre-requisite is, however, the acquisition of necessary legislative power not only to facilitate the establishment of this system in newly licensed areas but also to control the operations of existing licensees so as to secure fully co-ordinated development.

2. Government feel that it is not possible to legislate for this purpose within the framework of the Indian Electricity Act, 1910, which was conceived for a very different purpose. In their view what is needed is specific legislation; on the broad lines of the Electricity (Supply) Act 1926, in force in the United Kingdom, which will enable Provincial Governments to set up suitable organizations to work out "Grid Schemes" within the territorial limits of the Provinces. Although executive power under the proposed Bill will necessarily vest in the Provinces, two considerations indicate the necessity for Central legislation:—

(i) the need for uniformity in the organization and development of the "Grid System", and

(ii) the necessity for the constitution of semi-autonomous bodies like Electricity Boards to administer the "Grid Systems". In the view of Government it is bodies like these which are likely to be the most suitable organizations for working the "Grid Systems" on quasi-commercial lines. Such Boards cannot, however, be set up by Provincial Governments under the existing Constitutional Act as they would be in the nature of trading corporations within the meaning of Entry 33 of the Federal Legislative List.

3. The Notes on Clauses will briefly explain the main provisions of the Bill. Similar notes on the technical schedules have been enclosed.

N. V. GADGIL.

NEW DELHI;

The 10th November, 1947.

Notes on Clauses —

PREAMBLE

CHAPTER I.—INTRODUCTORY

Clause 1.—The Bill is designed so that after it has been passed into law by the Central Legislature, any Provincial Government which wishes to adopt its provisions in supplementation of the provisions of the Indian Electricity Act, 1910, can do so.

Clause 2.—Definitions

CHAPTER II.—PROVINCIAL ELECTRICITY BOARDS

Clause 3.—This deals with the constitution of Provincial Electricity Boards. It ensures, *inter alia*, that these Boards shall contain at least three full-time members with adequate qualifications and who have not recently been directly connected with party politics. Provincial Governments have the option of appointing up to four additional members (who may be full-time or part-time) in consultation with interested parties.

Clause 4.—This Clause enables a Province which is not strong in technical experts to take advantage of the juxtaposition of a Province which has, or is about to constitute, a Board for itself, and to arrange by agreement with such a neighbouring Province for its Board to carry out the functions of the Act in both Provinces. The Clause is purely permissive, and the detailed arrangements between two Provinces as to their representation on the Board, financial considerations, etc., are largely left to be settled by mutual agreement. It has been necessary to ensure that where two Provinces have agreed in terms of this Clause, it shall not be an arrangement lightly to be dissolved. This is because the ownership of so much property previously belonging to either Province will have been transferred to the joint Board. Hence the provision requiring an agreement under this Clause to have permanent effect. But that does not mean that the two Provinces could not terminate such an agreement by suitable legislation.

Clause 5.—Matters consequential on Clause 4.

Clause 6.—Provides for different terms of office of members of a Provincial Board, so as to ensure continuity of policy.

Clause 7.—A provision to ensure that full-time members of the Board shall be entirely disinterested parties.

Clause 8.—To ensure that Members of a Board (and particularly part-time members who are not affected by Clause 7) shall not vote when subjects come up in which they have an interest. The provision has a parallel in the Indian Companies Act, 1913.

Clause 9.—Deals with the usual provisions for disqualification of a member, and also debars a member from becoming directly connected with party politics.

Clause 10.

Clause 11.

Clause 12.

Clause 13.

Clause 14.

Clause 15.

} Self-explanatory.

Clause 16.—Provides for the constitution and use of Regional Advisory Committees, which may be required by certain Provinces.

CHAPTER III.—POWERS AND DUTIES OF PROVINCIAL ELECTRICITY BOARDS

Clause 17.—This sets out the main duties of Provincial Boards, namely to promote co-ordinated development of the supply of electricity within a Province in the most efficient and economical manner, with particular reference to such development of areas not for the time being served by any licensee. In particular the Boards are to—

(a) prepare and carry out schemes mentioned later in the Bill;

(b) supply electricity to owners of stations which are known as "controlled" stations under the Bill, and to licensees whose stations are closed down by the Board;

(c) supply electricity as soon as possible to any other licensees or persons requiring such supply and to whom the Board may be competent under this Act so to supply. This last reference to "competence" is dealt with in Clause 18.

Clause 18.—Provides that the existing statutory rights and obligations of a licensee under the Indian Electricity Act, 1910, shall not be derogated by a Board unless a licensee is not himself carrying out his development duties satisfactorily.

Clause 19.—Gives powers to a Board to promote the development of electricity by the manufacture, purchase, sale or hire of apparatus. Also provides that a Board may maintain shops and show-rooms, and conduct advertising campaigns.

Clause 20.—Enables a Board to investigate the possibilities of co-ordinating sources of thermal and water power in a Province. The approval of the Provincial Government is necessary before the Board undertakes water power investigations as this is a purely provincial subject.

Clause 21

Clause 22.

} Self-explanatory.

Clause 23.—Enables a Board to subscribe to associations conducted for purposes conducive to the development of electricity.

Clause 24.—Enables a Board to appoint consulting engineers.

Clause 25.—Gives to a Board all the powers and certain obligations applicable to a licensee under the Indian Electricity Act, 1910. A Board's obligations as a licensee are qualified in that certain sections of that Act applicable to ordinary licensees would be in conflict with the specific requirements of this Bill appertaining to a Board alone.

Clause 26—Self-explanatory.

CHAPTER IV.—BOARD'S WORKS AND TRADING PROCEDURE

Clause 27.—Relates to the preparation of schemes by a Board, and outlines broadly what these schemes may cover. It is not necessary for purposes of the main provisions of a scheme that a Board should have to go into details of all its proposed trading arrangement and its proposed distribution of electricity from major transmission lines. It will suffice to give a general outline of the major works to be undertaken, and their costs, so that the Board's proposals can be appraised by the public and other interested parties.

Clause 28.—Provides for publication of a Board's scheme, and for consultation, in respect of any really large schemes (exceeding Rs. 25 lakhs of capital expenditure), with the Central Government's Technical Power Board. The latter organisation is an advisory body, and the object of requiring such consultation with it is in the interests of nation-wide co-ordination.

Clause 29.—Sets out the particular aspects of co-ordination to which the Central Technical Power Board must give primary consideration.

Clause 30.

Clause 31.

Clause 32.

} Self-explanatory.

Clause 33.—Governs the procedure to be adopted when the Board selects a generating station to be a "controlled" station. Such "controlled" stations will form the backbone of an economically co-ordinated supply system. The trading relationship which a Board may statutorily insist upon between itself and a controlled station is set out at length in the First Schedule. Circumstances may dictate that all the provisions of the First Schedule are not necessarily desirable in every case, and hence the Board and the owner of the controlled station may agree, under clause 46, to modify the trading provisions of the First Schedule.

Clause 34.—Enables a Board to give a part supply of electricity to a licensee owning a generating station, where the Board does not consider it expedient to make that station a "controlled station". Here again Clause 46 ensures that the provisions of the relevant Schedule (Second Schedule) need only be applied if the Board and the owner of the station do not desire, or cannot agree, to alternative terms.

Clause 35.—Enables a Board permanently to close down generating stations which it considers uneconomic, where it can make other suitable arrangements for the supply of electricity. Here again Clause 46 provides for alternative arrangements if the Board and the licensee agree in lieu of the provisions of the First or Third Schedules.

Clause 36.—Deals with the transfer of, and payment for, generating stations or main transmission lines purchased by a Board. Unless otherwise agreed under Clause 46 the provisions of the Fourth Schedule will apply.

Clause 37.

Clause 38.

Clause 39.

} Self-explanatory.

Clause 40.—Enables a Board to use any transmission lines of a licensee for his own purposes if there is surplus capacity available in the lines. The terms of such use may be arranged by agreement or the Board may rely on the provisions of the Fifth Schedule.

Clause 41.—Gives the Board the powers of the Telegraph Authority in respect to the placing of transmission apparatus in circumstances where its powers as a licensee under the Indian Electricity Act, 1910, would not be adequate for the purpose. In particular the powers of the Telegraph Authority might be required when laying transmission lines across long stretches of open country, but these powers cannot be used in respect of any particular line unless such use has been specified in a sanctioned scheme in connection with that line.

Clause 42.—Gives a general power to a Board to enter into arrangements for purchase or sale of electricity with any person (whether a licensee or not). It also gives qualified additional powers to the Board to enter into similar arrangements with any neighbouring Province, or other authority outside the Province.

Clause 43.—Gives to a Board a qualified right to control the establishment of new generating stations or the extension of old generating stations (whether owned by a licensee or not). This provision is in the interests of national economy. The Board is required to show good reasons before exercising control.

Clause 44.—Enables a Board to enforce its directions concerning the closing down of generating stations or establishment, or extension of plant.

Clause 45.—Sets out the main principles governing the quotation by a Board of a special tariff at which it will sell electricity to a licensee in each area for which a scheme is in force.

Clause 46.—This is a clause enabling a Board to make arrangements in respect of its trading with a licensee by mutual agreement, if it feels that circumstances require the specific provisions of the First, Second, Third or Fourth Schedules to be modified. However, the Board is required at all times not to show undue preference.

Clause 47.—Removes any previously existing legal objections against the carrying out of arrangements sanctioned by the Bill.

Clause 48.—Gives a Board wide powers to regulate its tariffs for supply to all persons requiring electricity (other than licensees), subject always to the requirement that undue preference shall not be shown.

Clause 49.—Brings it to notice that a Board cannot attempt to enter into certain arrangements unless it is in a position to carry out one of the fundamental requirements of any such arrangement, namely that the Board can supply the other party's requirements of electricity itself, and is not debarred from so doing by Clause 18.

Clause 50.—Deals with provisional payments of monies due to and from a Board until final accounts can be settled.

Clause 51.—Is to ensure that excessively low power factors shall be remedied, if required by a Board, where it is selling electricity to a licensee. The Board can make regulations governing the power factor in connection with its supply to other persons under Clause 48.

Clause 52.—Ensures to a Board that its arrangements shall not be hindered by lack of available facilities.

Clause 53.—Ensures that a Board shall have means at its disposal to measure and control supplies of energy under the Bill.

Clause 54.—A general provision requiring all licensees to obey a Board's directions in respect of economy and efficiency in the operation of their generating stations. Penalty for disregard of this provision is laid down in Clause 75.

Clause 55.—Ensures that no licensee owning a generating station can, without valid reasons approved by a Board, avoid the objects of the Statute by hiring or leasing a generating station. It will be remembered that, as it is a duty of a Board to insure the best possible development of electric service, the Board cannot be unreasonable in its interpretation of this clause.

Clause 56.—Introduces the important Sixth Schedule and governs price control by a Board with respect to licensees not being local authorities.

Clause 57.—Extends the provisions of price control by a Board to licensees who are local authorities, and in whose cases the provisions of the Sixth Schedule are not entirely suitable owing to special features of public financing.

NOTE:—Clauses 56, 57 and the Sixth Schedule, are under reference to a special Central "Advisory Board" set up under section 35 of the Indian Electricity Act, 1910. The recommendations of this Advisory Board have yet to be received for further consideration by the Central Government.

CHAPTER V.—THE BOARD'S FINANCE, ACCOUNTS AND AUDIT

Clause 58.—Covers the general principle of a Board's finance, namely that as far as practicable the operations of the Board shall not be carried out at a loss, after taking into account any subsidies received from the Provincial Government, and that the Board's charges shall be adjusted accordingly. The clause also provides that working expenses may be paid out of capital if circumstances warrant, subject to the approval of the Provincial Government.

Clause 59.—Refers to the taking over by a Board of all relevant obligations incurred by the Provincial Government prior to the constitution of the Board.

Clause 60.—Regulates the submission by a Board of annual financial statements to the Provincial Government. Such statements are to be laid before the Provincial Legislatures, for discussion but not vote.

Clause 61.

Clause 62.

Clause 63.

} Self-explanatory

Clause 64.—Gives power to a Board to borrow, subject to approval of the Provincial Government by the issue of bonds of stock. The Clause also provides that the Board may not amortise its borrowings. This is because the Board is required under Clause 67 to provide adequate depreciation of its assets, and borrowings should not be separately amortised.

Clause 65.

Clause 66.

Clause 67.

Clause 68.

} Self-explanatory.

CHAPTER VI.—MISCELLANEOUS

Clause 69.—Provides that the contents of the Bill shall take precedence where they conflict with other laws or instruments.

Clause 70.—Transfers to a Board the rights previously vested in Provincial Governments or local authorities in respect of purchase of undertaking, where option to purchase arises under the Indian Electricity Act, 1910.

Clause 71.—Requires that where a Provincial Government desires to develop water power for electrical purposes, it shall give the Board the first option to undertake the work

Clause 72.—Self-explanatory.

Clause 73.—Ensures that the Board shall make proper annual report to the Provincial Government, which reports shall be published, and that the Board shall have power to obtain necessary information for the compilation of statistics from all persons supplying electricity.

Clause 74.—Provides that all questions arising under the Bill shall, in default of agreement, be settled by arbitration. This is essential in view of the technical nature of most of the questions which may arise.

Clause 75.

Clause 76.

Clause 77.

} Self-explanatory.

Clause 78.—Exempts a Board from liability to pay Central Government taxes. The Board is not, under the Bill, exempted from payment of Provincial Government and local taxes (this being a purely Provincial subject), but Provincial Governments themselves can legislate such exemption if they so desire.

Clause 79.

Clause 80.

} Self-explanatory.

FIRST SCHEDULE

This Schedule sets out the trading procedure upon which the Board may (in the absence of agreement to the contrary) insist as between itself and the owner of a controlled station—*vide* Clauses 33 and 35. The provisions are mainly of a technical nature, but the following points are particularly notable:

PART I

Assumption of Control

Paragraph 1(1).—Details the directions which a Board may give to the owner of a station for effecting control of generation. Provides also that the owner of a controlled station shall supply to the Board all the electricity generated at the station. The Board is under obligation to supply back to the owner the whole of his own requirements of electricity under paragraph 2.

Paragraph 1(2).—Provides that, if a Board wishes to do so, it may itself put up the money for any extensions to a controlled station, in lieu of the licensee doing so himself.

Paragraph 2.—Requires a Board to supply to the licensee, and the licensee to take from the Board, the whole of his requirements of electricity, subject to certain qualifications.

Paragraph 3.—Provides that the owner of a controlled station shall not, after the date of control, purchase power from a source other than the Board, except with the approval of the Board, or for a limited period.

Paragraph 4.—Provides that the Board shall pay to the licensee, for the whole of the energy supplied to the Board (*vide* para. 1), the whole of the costs of generation.

Paragraph 5.—Provides that the licensee shall pay to the Board, for the energy purchased by him from the Board for his own requirements, the whole of the costs of generating such requirements.

Paragraph 6.

Paragraph 7.

Paragraph 8.

} Self-explanatory.

PART II

Price to be paid for electricity supplied by the Board under Part I

These are technical-financial provisions laying down the basis upon which the price shall be fairly determined.

PART III

Permanent closing down of a controlled station

This Part provides that where the Board considers that a controlled station has ceased to be an economic unit it may be permanently closed down. This Part also prescribes the obligations of the Board to continue to supply all his requirements of electricity to the owner of the station which has been closed down, at a price not greater than that at which he himself could have generated, with the same plant, had his station not been closed down. Also prescribes that the owner of the station shall have the option to sell the station to the Board at a fair price, or to dispose of it himself.

PART IV

Purchase by the Board of a controlled station not to be closed down

This Part gives the Board an option to purchase a controlled station when its own interest in the user thereof has exceeded the licensee's user. Provides also for a fair price to be paid for the purchase and lays upon the Board an obligation to supply all the owner's requirements of electricity at a price not greater than that at which the station could have generated had it not been purchased by the Board.

SECOND SCHEDULE

Supply by a Board to licensees owning stations other than controlled stations

This Schedule sets out the price at which (unless otherwise agreed) the Board may give a part supply of electricity to the owner of a station which has not been controlled. See Clause 84.

THIRD SCHEDULE

Closing down of generating stations other than controlled stations

Provisions here are generally similar to the provisions contained in Part III of the First Schedule, but for technical reasons are not identical in points of detail. See Clause 85.

FOURTH SCHEDULE

Price to be paid for generating stations and main transmission lines purchased by the Board

This Schedule lays down that the Board shall pay a fair price based upon the original cost of the assets, less depreciation determined in accordance with a prescribed scale. The Schedule also allows such a premium on account of compulsory purchase as the owner would have been entitled to had the assets been purchased under the terms of the Indian Electricity Act, 1910. See Clause 36 and First and Third Schedules.

FIFTH SCHEDULE

Charges for use by a Board of transmission lines and main transmission lines

This Schedule contains technical-financial provisions to ensure that the Board pays a fair hire charge for the use of transmission lines. The Board may agree to alternative terms. See Clause 40.

SIXTH SCHEDULE

Financial provisions to be incorporated in licenses

This Schedule lays down the methods which a licensee (other than a local authority) shall adopt in respect of finance. This question is closely bound up with that of price control by the Board—See Clause 56. The Schedule is designed to secure that a licensee shall not be permitted to earn more than is necessary to provide him with a reasonable return and enable him to raise funds in the market necessary for the proper continuity of his public duties.

SEVENTH SCHEDULE

Depreciation of Assets

This Schedule and the Table appended prescribe the methods of determining the amount of annual depreciation to be

- (i) set aside by the Board in respect of its own assets,
- (ii) used in the computation of hire charges for transmission lines,
- (iii) used in the computation of prices for the supply of energy to and by the Board in respect of licensees owning controlled stations or whose stations have been shut down under the Statute. See Clause 67 and the Fifth and Eighth Schedules.

The Table to the Seventh Schedule is also applicable (but not the rest of the Schedule) in connection with

- (a) price control—See Clause 56 and the Sixth Schedule,
- (b) purchase of assets by the Board under the Bill. See the Fourth Schedule.

EIGHTH SCHEDULE

Determination of the cost of production of electricity at generating stations

This Schedule is required in connection with the First and the Third Schedules, in respect of the computation of the price of electricity at controlled stations and stations which are closed down under the Statute

NINTH SCHEDULE

Allocation of costs of production at generating stations

This is required in connection with the computation of the price of electricity at controlled stations under the First Schedule only.

M. N. KAUL,
Secy. to the Govt. of India.

L. A. BILL No. 55 of 1947.

A Bill further to amend the Indian Merchant Shipping Act, 1923

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923 (XXI of 1923), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Indian Merchant Shipping (Amendment) Act, 1947.

2. Insertion of new sections in Act XXI of 1923.—After section 289 of the Indian Merchant Shipping Act, 1923, the following sections shall be inserted, namely:—

“289A. *Power to restrict transfer of ships.*—(1) No person shall transfer or acquire any ship registered in any port of registry in India, or any share or interest therein, without the previous approval of the Central Government.

(2) If any person contravenes any of the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) Any transaction effected in contravention of the provisions of sub-section (1) shall be void and unenforceable.

289B. *Power to restrict transfer of registry of ships.*—Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), no application made, whether before or after the coming into operation of this section, for the transfer of the registry of a ship from a port of registry in India to a port of registry outside India shall be granted except with the previous approval of the Central Government, and the Central Government may, if it considers necessary or expedient so to do for the purpose of conserving the strength of Indian registered merchant shipping, refuse to give its approval to any such transfer.

289C. *Power to exempt ships from provisions of this Act and the Merchant Shipping Acts.*—Notwithstanding anything contained in this Act or the Merchant Shipping Acts, the Central Government may, upon such conditions, if any, as it may think fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of, this Act or the Merchant Shipping Acts, or dispense with the observance of any such requirement, in the case of any ship if it is satisfied that that requirement has been substantially complied with or that compliance with the requirement is unnecessary in the circumstances of the case.”

3. Repeal and saving.—(1) The Indian Merchant Shipping (Restriction of Registry) Ordinance, 1947 (XXVII of 1947), is hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act had commenced on the 31st day of October, 1947.

STATEMENT OF OBJECTS AND REASONS

In view of the policy of rapid expansion of the Indian Mercantile Marine to which Government of India are now committed and also in view of the difficulties of acquiring additional tonnage, it is necessary that steps should be

taken to conserve the small tonnage on the Indian register and to confer on the Central Government powers similar to those conferred upon it by the Defence of India Rules. Owing to the urgency of the matter and, as the Legislature was not in session, an Ordinance was promulgated on the 31st October, 1947, which empowered the Central Government to refuse applications for the transfer of registry of ships under certain circumstances. This Bill, which will repeal the Ordinance, will also enable Government to exercise control over the transfer or acquisition by any person of any ship registered in India or any share or interest therein.

2. Provision has also been made for conferring powers on Government to exempt ships from complying with any particular requirement of the Merchant Shipping Acts upon such conditions, if any, as it may think fit to impose. Occasions do arise when ships are unable to satisfy fully the technical requirements of the Merchant Shipping Acts applicable to them and it is considered desirable that Government should have powers to grant exemptions and relaxations in suitable cases. Such powers already exist in the British Merchant Shipping Acts (*vide* section 78 of the Merchant Shipping Act, 1906) but there is at present no corresponding provision in the Indian Act.

NEW DELHI;

N. V. GADGIL.

The 11th November, 1947.

L. A. BILL* No. 56 OF 1947.

A Bill to give effect to the supplementary financial proposals of the Central Government for the year ending on the 31st day of March 1948.

WHEREAS it is expedient to impose an export duty in cotton cloth and yarn, and to amend the Cotton Textiles Fund Ordinance, 1944 (XXXIV of 1944);

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Finance (Supplementary) Act, 1947.

(2) It extends to all the Provinces of India.

2. Addition to Second Schedule, Act XXXII of 1934.—In the Second Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), after Item No. 5, the following items shall be inserted:—

- | | |
|--|---------------------------|
| "6. Cloth of any description manufactured either wholly from cotton or partly from cotton and partly from any other substance and containing not less than ten per centum of cotton by weight. | Annas four per square yd. |
| 7. Yarn of any description manufactured either wholly from cotton or partly from cotton and partly from any other substance and containing not less than ten per centum of cotton by weight. | Annas six per lb." |

3. Amendment of Ordinance No. XXXIV of 1944.—For section 4 of the Cotton Textiles Fund Ordinance, 1944, the following section shall be substituted, namely:—

"4. *Government's contribution to the Fund.*—The Central Government may from time to time make such contributions to the Fund as it thinks fit."

* The Governor General has been pleased to give the previous sanction required by sub-sections (1) and (3) of Section 37 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, to the introduction in the Constituent Assembly of India (Legislative) of this Bill.

Declaration under the Provisional Collection of Taxes Act, 1931.—It is hereby declared that it is expedient in the public interest that the provisions of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to levy an enhanced duty of customs on the export of cotton cloth and yarn.

R. K. SHANMUKHAM CHETTY.

NEW DELHI;

The 26th November, 1947.

NOTES ON CLAUSES

Clause 2 provides for the levy of a duty of four annas a square yard on cotton cloth and six annas a lb. on cotton yarn exported from India.

Clause 3 replaces Section 4 of the Cotton Textiles Fund Ordinance, 1944, under which an export duty of three per cent. *ad valorem* is levied on exports of cotton cloth and yarn and the net proceeds credited to the Cotton Textiles Fund. In future the Fund will receive such grants as the Central Government may think fit to make.

M. N. KAUL,

Secy. to the Govt. of India.